



राजपत्र, हिमाचल प्रदेश

हिमाचल प्रदेश राज्य शासन द्वारा प्रकाशित

शुक्रवार, 20 मई, 2022 / 30 वैशाख, 1944

हिमाचल प्रदेश सरकार

LABOUR AND EMPLOYMENT DEPARTMENT

NOTIFICATION

Dated, the 08th February, 2022

No. Shram (A) 6-2/2020 (Awards) Dharamshala.—In exercise of the powers vested under section 17 (1) of the Industrial Disputes Act, 1947, the Governor Himachal Pradesh is

pleased to order the publication of awards of the following cases announced by the Presiding Officer, Labour Court, Dharamshala on the website of the Department of Labour & Employment Government of Himachal Pradesh:—

Sl. No.	Ref. No.	Petitioner	Respondent	Date of Award/ Order
1.	18/20	Manish Kumar Prarthi	M.D., M/s Pranav Plastic	02-12-2021
2.	53/19	Anjali Rana	CSK, HPKVV Palampur & Ors.	02-12-2021
3.	31/20	Dinesh Singh	Govt. Medical College, Chamba	08-12-2021
4.	42/20	Baby Devi	-do-	08-12-2021
5.	140/19	Rajesh Kumar	M/s Kailash Print Media, Sasan	11-12-2021
6.	763/16	Prem Singh	E. E. HPSEBL, Dalhousie, Chamba	15-12-2021
7.	840/16	Hanif Mohmad	-do-	15-12-2021
8.	761/16	Desh Raj	-do-	15-12-2021
9.	836/16	Kaku Ram	-do-	15-12-2021
10.	764/16	Jagdish Chand	-do-	15-12-2021
11.	837/16	Ruldu Ram	-do-	15-12-2021
12.	838/16	Kaliyan Singh	-do-	15-12-2021
13.	76/17	Shanta Kumar	E.E., HPPWD, Killar (Pangi)	16-12-2021
14.	369/16	Des Raj	-do-	16-12-2021
15.	73/17	Gian Chand	-do-	16-12-2021
16.	348/16	Sham Singh	-do-	16-12-2021

By order,

R. D. DHIMAN, IAS,
Addl. Chief Secretary (Lab. & Emp.).

IN THE COURT OF SHRI ARVIND MALHOTRA, PRESIDING JUDGE, LABOUR COURT-CUM-INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (H.P.)

Ref. No. : 18/2020

Date of Institution : 23-1-2020

Date of Decision : 02-12-2021

Shri Manish Kumar Prarthi s/o Shri Dharam Singh, r/o Village Dagroh, P.O. Sukhsal, Tehsil Nangal, District Ropar, Punjab . .Petitioner.

Versus

The Managing Director, M/s Pranav Plastic, Industrial Area, Bela Bathri, Tehsil Haroli, District Una, H.P. . .Respondent.

Reference under Section 10 (1) of the Industrial Disputes Act, 1947

For the Petitioner: Petitioner in person

For the Respondent: Sh. Rajinder Thakur, Ld.
Advocate

AWARD

Reference under Section 10(1) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act' for short) to the following effect has been received for adjudication from the appropriate Government:

"Whether the termination of services of Shri Manish Kumar Prarthi s/o Shri Dharam Singh, r/o Village Dagroh, P.O. Sukhsal, Tehsil Nangal, District Ropar, Punjab by the Managing Director, M/S Pranav Plastic, Industrial Area, Bela Bathri, Tehsil Haroli, District Una, H.P. w.e.f. 20-11-2018, without complying with the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not, what amount of back wages, seniority, past service benefits the above worker is entitled to from the above employer/management?"

2. Today the case was listed for appearance of petitioner. Petitioner Shri Manish Kumar Prarthi has made the following statement on oath in the Court:—

"I do not intend to pursue my claim regarding termination of services against respondent and consequently withdraw the same. The present reference may kindly be answered accordingly."

RO&AC
Sd/-
(Sh. Manish Kumar)
Identified by Sh. Mukul Vaid,
Ld. Advocate

PJ
Sd/-

3. In view of the above statement, this reference/claim petition is disposed off as not pursued and withdrawn by the petitioner. Parties to bear their costs.
4. The reference is answered in the aforesaid terms.
5. A copy of this Award be sent to the appropriate Government for necessary action at its end and the file after due completion be consigned to the Record Room.

Announced in the open Court today this 2nd day of December, 2021.

Sd/-
(ARVIND MALHOTRA),
Presiding Judge,
Labour Court-cum-Industrial
Tribunal, Kangra at Dharamshala, H.P.

**IN THE COURT OF SHRI ARVIND MALHOTRA, PRESIDING JUDGE, LABOUR
COURT-CUM-INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (H.P.)**

Ref. No. : 53/2019
Date of Institution : 23-5-2019
Date of Decision : 02-12-2021

Smt. Anjali Rana w/o Shri Suresh Rana, r/o Village Khalet, P.O. Thakurdwara, Tehsil
Palampur, District Kangra, H.P. . *Petitioner.*

Versus

1. The Vice Chancellor/Director of Research, Chaudhary Sarwan Kumar Himachal Pradesh Krishi Vishvavidyalaya, Palampur, District Kangra, H.P.
2. The Students Welfare Officer, Chaudhary Sarwan Kumar Himachal Pradesh Krishi Vishvavidyalaya, Palampur, District Kangra, H.P.
3. The Managing Director/Proprietor, M/s Sampark Services, Village and Post Office Gohar, District Mandi, H.P. Camp Office at Village Tanda, Near COBS, CSKGHPKV, Palampur, District Kangra, H.P. . *Respondents.*

Reference under Section 10 (1) of the Industrial Disputes Act, 1947

For the Petitioner : Sh. Mukul Vaid, Ld. Advocate
For the Respondents 1 & 2 : Sh. Vishal Pathania, Ld. Advocate
For the Respondent No. 3 : Sh. Umesh Nath Dhiman, Ld.
Advocate

AWARD

Reference under Section 10(1) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act' for short) to the following effect has been received for adjudication from the appropriate Government:

“Whether the termination of services of Smt. Anjali Rana w/o Shri Suresh Rana, r/o Village Khalet, P.O. Thakurdwara, Tehsil Palampur, District Kangra, H.P. by the (1) Vice

Chancellor/Director of Research, Chaudhery Sarwan Kumar Himachal Pradesh Krishi Vishavidyalaya, Palampur, District Kangra, H.P. (2) The Students Welfare Officer, Chaudhery Sarwan Kumar Himachal Pradesh Krishi Vishavidyalaya, Palampur, District Kangra, H.P. (3) The Managing Director/Proprietor, M/s Sampark Services, Village and Post Office Gohar, District Mandi, H.P. Camp Office at Village Tanda, Near COBS, CSKGHPKV, Palampur, District Kangra, H.P. *w.e.f.* 31-12-2017 without complying with the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not, what amount of back wages, seniority, past service benefits and amount of compensation the above aggrieved worker is entitled to from the above employers?"

2. Today the case was listed for filing of reply by respondent No. 3. However, petitioner Smt. Anjali Rana has made the following statement on oath in the Court:—

"I do not intend to pursue my claim regarding termination of services against respondents and consequently withdraw the same. The present reference may kindly be answered accordingly."

RO&AC

Sd/-

(Smt. Anjali Rana)

Identified by Sh. Mukul Vaid,

Ld. Advocate

PJ

Sd/-

3. In view of the above statement, this reference/claim petition is disposed off as not pursued and withdrawn by the petitioner. Parties to bear their costs.

4. The reference is answered in the aforesaid terms.

5. A copy of this Award be sent to the appropriate Government for necessary action at its end and the file after due completion be consigned to the Record Room.

Announced in the open Court today this 2nd day of December, 2021.

Sd/-

(ARVIND MALHOTRA),

Presiding Judge,

Labour Court-cum-Industrial

Tribunal, Kangra at Dharamshala, H.P.

**IN THE COURT OF SHRI ARVIND MALHOTRA, PRESIDING JUDGE, LABOUR
COURT-CUM-INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (H.P.)
(CAMP AT CHAMBA)**

Ref. No. : 31/2020

Date of Institution : 02-3-2020

Date of Decision : 08-12-2021

Shri Dinesh Singh s/o Shri Hem Singh, r/o Village Choori, P.O. Choori, Tehsil & District Chamba, H.P. . *Petitioner.*

Versus

1. The Principal, Government Pandit Jawahar Lal Nehru Medical College & Hospital, Chamba, District Chamba, H.P.

2. The Director, M/s IL & FS Human Resources Limited, Government Pandit Jawahar Lal Nehru Medical College & Hospital Chamba, District Chamba, H.P. . *Respondents.*

Reference under Section 10 (1) of the Industrial Disputes Act, 1947

For the Petitioner	: None for the petitioner
For Respondent No. 1	: Smt. Pooja Sharma, Ld. Advocate
For Respondent No. 2	: Smt. Himakshi Gautam, Ld. Advocate

AWARD

Reference under Section 10(1) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act' for short) to the following effect has been received for adjudication from the appropriate Government:

"Whether the termination of services of Shri Dinesh Singh s/o Shri Hem Singh, r/o Village Choori, P.O. Choori, Tehsil & District Chamba, H.P. by (i) the Principal, Government Pandit Jawahar Lal Nehru Medical College & Hospital, Chamba, H.P. (ii) the Director, M/s IL & FS Human Resources Limited Government Pandit Jawahar Lal Nehru Medical College & Hospital Chamba, District Chamba, H.P., *w.e.f.* 01-06-2019, without complying with the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not, what amount of back wages, seniority, compensation and past service benefits the above worker is entitled to from the above employers?"

2. Petitioner Shri Dinesh Singh was proceeded *ex parte* on 26-11-2021 as per the report of process server to the effect that petitioner Shri Dinesh Singh was found at home who informed that he has got employment with CISF NHPC and he does not intend to pursue his case as also he refused to receive summon. Even earlier he was served for 9-9-2021 but had not appeared. Thus, despite due notice of the date of hearing, the workman/petitioner has remained *ex-parte*.

3. It will be apt at this stage to take note of the relevant provisions of the Industrial Disputes Act, 1947. Section 2 (b) of the Act defines award as under:—

"(b) "award" means an interim or a final determination of any industrial dispute or of any question relating thereto by any Labour Court, Industrial Tribunal or National Industrial Tribunal and includes an arbitration award made under Section 10A;".

4. Sub-Section (1) of Section 11 of the Act provides that subject to any rules that may be made in this behalf, an arbitrator, a Board, Court, Labour Court, Tribunal or National Tribunal shall follow such procedure as the arbitrator or other authority concerned may think fit.

5. The State of Himachal Pradesh has framed rules called “The Industrial Disputes Rules, 1974.” Rule 25 thereof reads thus:—

“Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator may proceed ex-parte.- If without sufficient cause being shown, any party to the proceeding before a Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator fails to attend or to be represented, the Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator may proceed, as if the party had duly attended or had been represented.”

6. Rule 25 of the Industrial Disputes Rules, 1974 authorize the adjudicating authority to proceed in the absence of a party. It creates a fiction which enables the Labour Court to presume that all the parties are present before it although, infact, it is not true, and thus make an *ex parte* award. This Court in these circumstances has to imagine that the absentee workman is present and having done so, can give full effect to its imagination and carry it to its logical end. Under Rule 25, this Court, thus, has to imagine that the workman is present, he is unwilling to file the statement of claim, adduce evidence or argue his case.

7. In the instant case, neither the workman nor his counsel has put in appearance before this Court on 26-11-2021 at Chamba, despite due notice. In these circumstances, the Labour Court can proceed and pass *ex parte* award on its merits.

8. As per the reference, it was required of the petitioner to plead and prove on record that the termination of his services *w.e.f.* 01-06-2019 by the respondent was without complying with the provisions of the Act and thus, illegal and unjustified. However, there is neither any pleading nor any evidence to this effect on record adduced by the petitioner/workman. In absence of which, if cannot be held that the termination of services of petitioner *w.e.f.* 1-6-2019 was without complying with the provisions of the Act and as such illegal and unjustified. At the risk of repetition the petitioner/workman has not put in appearance before this Court, despite due notice. In this view of the matter, the petitioner is not entitled to any back wages, seniority, past service benefits and compensation. Accordingly, this reference is answered in above terms. Parties are left to bear their costs.

9. A copy of this Award be sent to the appropriate Government for necessary action at its end and the file after due completion be consigned to the Record Room.

Announced in the open Court today this 8th day of December, 2021.

Sd/-
(ARVIND MALHOTRA),
Presiding Judge,
Labour Court-cum-Industrial
Tribunal, Kangra at Dharamshala, H.P.

**IN THE COURT OF SHRI YOGESH JASWAL PRESIDING JUDGE, LABOUR COURT
-CUM-INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (H.P.)
(CAMP AT CHAMBA)**

Ref. No. : 42/2020

Date of Institution : 02-3-2020

Date of Decision : 08-12-2021

Smt. Baby Devi w/o Shri Govind Singh, r/o Mohalla Dhrogh, P.O. Chamba, Tehsil & District Chamba, H.P. . *Petitioner.*

Versus

1. The Principal, Government Pandit Jawahar Lal Nehru Medical College & Hospital, Chamba, District Chamba, H.P.

2. The Director, M/s IL & FS Human Resources Limited, Government Pandit Jawahar Lal Nehru Medical College & Hospital Chamba, District Chamba, H.P. . *Respondents.*

Reference under Section 10 (1) of the Industrial Disputes Act, 1947

For the Petitioner : None for the petitioner

For Respondent No.1 : Smt. Pooja Sharma, Ld. Advocate

For Respondent No. 2 : Smt. Himakshi Gautam, Ld. Advocate

AWARD

Reference under Section 10(1) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act' for short) to the following effect has been received for adjudication from the appropriate Government:

"Whether the termination of services of Smt. Baby Devi w/o Shri Govind Singh, r/o Mohalla Dhrogh, P.O. Chamba, Tehsil & District Chamba, H.P. by (i) the Principal, Government Pandit Jawahar Lal Nehru Medical College & Hospital, Chamba, H.P. (ii) the Director, M/S IL & FS Human Resources Limited Government Pandit Jawahar Lal Nehru Medical College & Hospital Chamba, District Chamba, H.P., *w.e.f.* 01-06-2019, without complying with the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not, what amount of back wages, seniority, compensation and past service benefits the above worker is entitled to from the above employers?"

2. The petitioner was proceeded *ex parte* on 26-11-2021 as despite personal service and due notice of the date of hearing, the workman/petitioner had absented from appearing in the Court and remained *ex parte*.

3. It will be apt at this stage to take note of the relevant provisions of the Industrial Disputes Act, 1947. Section 2 (b) of the Act defines the Award as under:—

"(b) "award" means an interim or a final determination of any industrial dispute or of any question relating thereto by any Labour Court, Industrial Tribunal or National Industrial Tribunal and includes an arbitration award made under Section 10A;".

4. Sub-Section (1) of Section 11 of the Act provides that subject to any rules that may be made in this behalf, an arbitrator, a Board, Court, Labour Court, Tribunal or National Tribunal shall follow such procedure as the arbitrator or other authority concerned may think it fit.

5. The State of Himachal Pradesh has framed rules called “The Industrial Disputes Rules, 1974.” Rule 25 thereof reads thus:—

“Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator may proceed ex-parte.- If without sufficient cause being shown, any party to the proceeding before a Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator fails to attend or to be represented, the Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator may proceed, as if the party had duly attended or had been represented.”

6. Rule 25 of the Industrial Disputes Rules, 1974 authorizes the adjudicating authority to proceed in the absence of a party. It creates a fiction which enables the Labour Court to presume that all the parties are present before it although, infact, it is not true, and thus make an *ex parte* award. This Tribunal in these circumstances has to imagine that the absentee workman is present and having done so, can give full effect to its imagination and carry it to its logical end. Under Rule 25, this Court, thus, has to imagine that the worker is present, she is unwilling to file the statement of claim, adduce evidence or argue her case.

7. In the instant case, neither the worker nor her counsel has put in appearance before this Tribunal on 26-11-2021 at Chamba, despite due notice. In these circumstances, the Labour Court can proceed and pass *ex parte* award on its merits.

8. As per the reference, it was required of the petitioner to plead and prove on record that the termination of her services *w.e.f.* 01-06-2019 by the respondent was without complying with the provisions of the Act and thus, illegal and unjustified. However, there is neither any pleading nor any evidence to this effect adduced by the petitioner/worker. At the risk of repetition it is observed that the petitioner/worker had not put in appearance before this Court, despite due notice. In this view of the matter, the petitioner is not entitled to any back wages, seniority, past service benefits and compensation. Accordingly, this reference is answered in above terms. Parties are left to bear their costs.

9. A copy of this Award be sent to the appropriate Government for necessary action at its end and the file after due completion be consigned to the Record Room.

Announced in the open Court today this 8th day of December, 2021.

Sd/-
(ARVIND MALHOTRA),
Presiding Judge,
Labour Court-cum-Industrial
Tribunal, Kangra at Dharamshala, H.P.

BEFORE THE NATIONAL LOK ADALAT HELD AT DHARAMSHALA

[Organized by Labour Court-cum-Industrial Tribunal, Dharamshala under section 19 of the Legal Services Authorities Act, 1987 (Central Act)]

Applicant : Sh. Rajesh Kumar s/o Sh. Dharam Chand,
r/o Vill. Kangru, P.O. Bohni, Tehsil and
District Hamripur, H.P.

Respondent : M/s Kailash Print Media Pvt. Ltd., Vill.
Sasan, P.O. Jhanyari, Tehsil & District
Hamirpur, H.P.

Number of proceedings of the
Labour Court-cum-Industrial
Tribunal, Dharamshala : Reference No. 140/2019

Present:—

Applicant : Petitioner present in person with Sh. Mukul
Vaid, Ld. Advocate

Respondent : Sh. Puneet Tanu, Ld. Advocate

AWARD

Reference under Section 17 (2) of the Working Journalists and Other Newspaper Employees (Conditions of Service) and Miscellaneous Provisions Act, 1955, (hereinafter referred to as 'the Act') to the following effect has been received from authority specified under Section 17(1) of the Act for adjudication.

“Whether the claim of Sh. Rajesh Kumar s/o Sh. Dharam Chand r/o Vill. Kangru P.O. Bohni Tehsil and Distt. Hamirpur, H.P. for the recovery of the amount due to him on account of his pending wages for 6 months amounting to Rs.54,000/-, Earned leave amounting to Rs.10,000/- and TA bills for 8 months amounting to Rs.32,000/- from M/s. Kailash Print Media Pvt. Ltd. Having its office at Vill Sasan P.O. Jhanyari Tehsil and Distt. Hamirpur H.P. is justified? If yes, to what amount of pending wages, earned leave and T.A. bills alongwith interest or compensation, he is entitled to?”

The dispute between the parties having been referred for determination to the National Lok Adalat and the parties having compromised/settled the case/matter, the following award is passed in terms of the settlement:

Vide Separate statement recorded petitioner Shri Rajesh Kumar has deposed on oath having settled the dispute with respondent and received Rs.15,000/- as full and final settlement of his case against the respondent. In view of the same, he has stated that his claim/reference may be disposed off as compromised.

Sh. Puneet Tanu learned counsel for respondent having read statement of petitioner Shri Rajesh Kumar, has concurred with the same on behalf of respondent and also deposed that reference may be answered as compromised accordingly.

In view of the aforesaid statements recorded before the Bench of National Lok Adalat, the present reference under Section 17(2) of the Act *ibid* is answered as compromised. A copy of this Award be sent to the appropriate Government for necessary action at its end and the file after due completion be consigned to the Record Room.

The parties are informed that the Court fee, if any, paid by any of them shall be refunded.

Member
(B.S. Pathania)

Judicial Officer
(Arvind Malhotra)

Announced:
Date: 11-12-2021

IN THE COURT OF SHRI ARVIND MALHOTRA, PRESIDING JUDGE, LABOUR COURT-CUM-INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (H.P.)

Ref. No. : 763/2016

Date of Institution : 19-11-2016

Date of Decision : 15-12-2021

Shri Prem Singh s/o Shri Jigri Ram, r/o Village Tikkri, P.O. Garnota, Tehsil Bhatiyat, District Chamba, H.P. . *Petitioner.*

Versus

The Executive Engineer/Addl. Superintending Engineer, Electrical Division, HPSEBL, Dalhousie, District Chamba, H.P. . *Respondent.*

Reference under Section 10 (1) of the Industrial Disputes Act, 1947

For the Petitioner : Sh. Rajinder Thakur, Ld. Advocate

For the Respondent : Sh. Anand Sharma, Ld. Advocate

AWARD

Reference under Section 10(1) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act' for short) to the following effect has been received for adjudication from the appropriate Government:

“Whether alleged termination of services of Shri Prem Singh s/o Shri Jigri Ram, r/o Village Tikkri, P.O. Garnota, Tehsil Bhatiyat, District Chamba, H.P. during 06/1990 by the Executive Engineer/Addl. Superintending Engineer, Electrical Division, HPSEBL, Dalhousie, District Chamba, H.P. who has worked as beldar on daily wages basis and has raised his industrial dispute vide demand notice dated nil received in the Labour Office Chamba on 01-05-2015 after more than 25 years without complying with the provisions of the Industrial Disputes Act, 1947 is legal and justified? If not, keeping in view of working period of 42 and 51 days during year 1989 and 1990 and delay of more than 25 years in raising the industrial dispute, what amount of back wages, seniority, past service benefits and compensation the above ex-worker is entitled to from the above employer/management?”

2. In nutshell, facts pleaded by petitioner in his statement of claim are that he was engaged as daily waged worker in Electrical Sub Division, HPSEBL, Sihunta, Electrical Division, HPSEBL Dalhousie *w.e.f.* 2-1-1988 and worked sincerely upto March, 1998. Respondent used to give fictional breaks on the pretext of non availability of work. At the end of March, 1998, the services of petitioner were terminated by respondent on the ground of non availability of work and he was told to be re-engaged on availability of work as and when required on the basis of seniority prepared by the respondent. It is further pleaded that certain junior persons to petitioner were not only retained but respondent engaged number of persons in daily wages after termination of petitioner. Principle of ‘last come first go’ is stated to be violated. Number of junior persons are also stated to have been regularized by the respondent. It is also averred that services of petitioner were terminated without issuing any notice. Petitioner served demand notice but respondent

brought distorted and unjustified facts before Labour-cum-Conciliation Officer acting contrary to factual position. The respondent stated petitioner to have worked for 42 & 51 days only in years 1989 and 1990 respectively, whereas, petitioner has claimed to have worked with respondent upto March, 1998 completing 240 days in each calendar year. Thus, petitioner prayed for quashing and setting aside termination of his services, reinstatement alongwith consequential benefits *i.e.* continuity in service, seniority, regularization and back wages with interest.

3. Respondent contested the claim by filing reply raising preliminary objections that petitioner has worked as casual labourer *w.e.f.* February, 1989 upto June, 1990 with continuous breaks in service at his own instance. Further that petitioner has not completed 240 days, not approached the Court with clean hands and petitioner has no cause of action as well his claim is hopelessly time barred by limitation and does not fall within the ambit of the Act and therefore claim petition is not maintainable. On merits, similar facts were submitted and respondent pleaded that principle of 'first come last go' is not applicable in this case. Respondent also denied violation of Labour laws. It was further pleaded that petitioner was habitual of absenting himself and left the job without intimation as well did not resume duty nor approached the replying respondent. It is also pleaded that petitioner has never given any representation to the respondent and thus respondent prayed for dismissal of claim petition.

4. Rejoinder was filed by the petitioner denying contents of the reply and reasserting those of the claim petition.

5. On the pleadings of parties, following issues were framed on 20-7-2019:—

1. Whether termination of services of the petitioner during June, 1990 by the respondent is/was illegal and unjustified, as alleged? . . .*OPP.*
2. If issue No.1 is proved in affirmative to what service benefits the petitioner is entitled to? . . .*OPP.*
3. Whether the claim petition is not maintainable, as alleged? . . .*OPR.*
4. Whether the petitioner has not approached the Tribunal with clean hands and has concealed the true and material facts, as alleged? . . .*OPR.*
5. Whether the petitioner has no cause of action to file the petition, as alleged? . . .*OPR.*
6. Whether the petition is barred by limitation, as alleged? . . .*OPR.*

Relief.

6. Evidence was led by the parties to the lis in support of the issues framed.

7. Petitioner as PW1 deposed his claim through his sworn affidavit Ex.PW1/A in consonance with statement of claim. He tendered demand notice Ex.PW1/B, reply to the demand notice Ex.PW1/C and mandays chart Ex.PW1/D in evidence. In cross-examination he admitted that they were casual labourers and were called only when necessity arose. He claimed ignorance when he filed the case. He denied voluntarily leaving the work. He voluntarily stated that he had not given petition for re-engagement. However, stated he could produce petition given.

8. On the other hand, respondent examined RW1 Shri Rajeev Mahajan, Sr. Executive Engineer, who deposed the defence of respondent as taken in the reply, through his sworn affidavit

Ex.RW1/A. He further tendered in evidence mandays chart of petitioner Ex.RW1/B. In cross-examination, he admitted that petitioner was engaged as labourer on muster roll but voluntarily stated him to be engaged as casual labourer. He admitted that no notice was issued to the petitioner but self stated the petitioner voluntarily left the work. He denied that after termination of services of petitioner, fresh workers were engaged and regularized. He also denied petitioner having worked for 240 days in calendar years.

9. I have heard learned counsel for the parties at length and carefully perused the material on record.

10. For the reasons to be recorded hereinafter, the findings of this Court on the above issues are as under:—

Issue No. 1	: No
Issue No. 2	: Redundant
Issue No. 3	: Yes
Issue No. 4	: No
Issue No. 5	: Yes
Issue No. 6	: No
Relief.	: Petition is dismissed as per operative part of the Award.

REASONS FOR FINDINGS

Issues No.1, 3, 5 and 6 :

11. All these issues taken up together for discussion and disposal as they are interlinked so as to avoid repetition of facts and evidence.

12. Petitioner's case is that he was given fictional breaks from January, 1988 till March, 1998. However, reference made to this Court by the appropriate Government does not raise issue of fictional breaks during aforesaid period but the issue of alleged termination of services of petitioner during June, 1990, as to whether without complying with the provisions of the Act, the same is illegal and unjustified. Therefore, the issue of alleged fictional breaks is beyond the scope of reference in terms of Section 10(4) of the Act and as such not to be entertained.

13. Petitioner's pleaded and deposed case through his sworn affidavit Ex. PW1/A is that his services were terminated on the pretext of non availability of work whereas certain junior persons to the petitioner in service were retained in violation of principle of 'last come first go'. However, petitioner has not named any such junior person to have been engaged or retained by the respondent after termination of his services. He has neither pleaded nor averred on oath name of any such junior. There is also no evidence; documentary or ocular, proving the fact that any person junior to petitioner was retained by the respondent after termination of services of petitioner. Thus, the principle of 'last come first go' has not been proved to be violated by the respondent.

14. The next plea of petitioner as pleaded and deposed is that many fresh persons were allegedly engaged in the capacity of daily waged worker after termination of the petitioner. However, in this regard also petitioner has failed to plead and depose on oath the name of any such fresh person allegedly engaged as daily waged worker in the same capacity as that of petitioner after termination of his services without affording him opportunity of re-engagement. Consequently, the petitioner has miserably failed to prove violation of Section 25-H of the Act.

15. Last plea of petitioner is termination of his service without issuing any notice. In other words, violation of Section 25-F of the Act. The mandays chart produced by petitioner Ex.PW1/D and also similar mandays chart produced by respondent as Ex.RW1/B show petitioner to have worked for 10 days in February, 1989, 23 days in March, 1989, 9 days in November, 1989, 9 days in January, 1990, 6 days in February, 1990, 7 days in May, 1990 and 29 days in June, 1990 thereby totaling 93 days between February, 1989 to June, 1990. Petitioner has not proved these mandays charts to be wrong or against the factual position. The petitioner has thus failed to prove that he worked for 240 days in the preceding twelve calendar months of his termination of services. Consequently, petitioner is not entitled to the protection of Section 25-F of the Act. Thus, it cannot be held that alleged termination of services of petitioner during June, 1990 by respondent was without complying with the provisions of the Act.

16. Another vital aspect of the matter is that petitioner though has pleaded of repeatedly approaching the respondent to reinstate/re-engage him, but no such request or representation has been adduced on record by the petitioner. He has voluntarily deposed in cross-examination that he has not given petition for engagement on work, though further stated that he could produce the petition given. However, petitioner has not adduced/produced any such petition or representation on record. The petitioner as per demand notice Ex.PW1/B has raised the issue of termination of his service but said demand notice is without date and reply Ex.PW1/C of the respondent to said demand notice is dated 20-11-2015. As per reference demand notice dated nil was received in the Labour Office, Chamba on 1-5-2015 after more than 25 years, which fact has not been proved wrong or incorrect by the petitioner. Respondent RW1 Shri Rajeev Mahajan has specifically deposed that petitioner has turned up after more than two decades, therefore, there is no question of equal treatment with junior. RW1 has also specifically deposed that petitioner never gave any representation to the replying respondent. This version of RW1 could not be diluted in cross-examination on behalf of petitioner. Consequently, raising of the demand belatedly after about 25 years of alleged termination of service in June, 1990, the claim of petitioner is certainly stale. In this regard it is apposite to refer judgment of Hon'ble Apex Court in **Assistant Engineer, Rajasthan State Agriculture Marketing Board, Sub Division Kota Vs. Mohan Lal 2013 (14) SCC 543**, wherein it has been held that though the Limitation Act is not applicable to the reference made under the I.D Act but delay in raising industrial Dispute is an important circumstance for exercise of judicial discretion in determining relief that is to be granted. The relevant portion of aforesaid judgment is reproduced as under:

“19. We are clearly of the view that though the Limitation Act, 1963 is not applicable to the reference made under the ID Act but delay in raising industrial dispute is definitely an important circumstance which the Labour Court must keep in view at the time of exercise of discretion irrespective of whether or not such objection has been raised by the other side. The legal position laid down by this Court in *Gitam Singh* that before exercising its judicial discretion, the Labour Court has to keep in view all relevant factors including the mode and manner of appointment, nature of employment, length of service, the ground on which termination has been set aside and the delay in raising industrial dispute before grant of relief in an industrial dispute, must be invariably followed.”

17. In **State of Karnataka Vs. Ravi Kumar 2009 (13) SCC 746**, Hon'ble Supreme Court dismissed the reference on the ground of delay and it was held that the employer could not be

expected to prove after 14 years that the employee did not work or that he did not work for 240 days or he voluntarily left the job. The relevant portion of the aforesaid judgment reads as under:

“9. It is not possible to expect the Asstt. Executive Engineer to prove after 14 years that the daily wager did not work or that he did not work for 240 days in a year or that the daily wager voluntarily left the work.....

18. Hon’ble High Court H.P. in **Bego Devi Versus State of HP and others 2016 LawSuit (H.P.) 2259** has held as under:

“5. As discussed hereinabove, petitioners have chosen to remain in deep slumber for not less than 8-12 years and have come out of deep slumber after more than 8 to 12 years. While going through the writ petitions, it appears that the petitioners remained contented with the orders of their termination and had not made any murmur for making reference. It is only after noticing the judgment of the apex Court in Ajaib Singh versus Sirhind Cooperative Societies Ltd reported in AIR 1999 SC 1351, Raghubir Singh versus General Manager, Haryana Roadways, Hissar, reported in 2014 AIR SCW 5515, which has been relied upon by this Court in a batch of writ petitions, CWP No. 9467 of 2014 titled as Pratap Chand versus Himachal Pradesh State Electricity Board and others, being the lead case, decided on 30-12-2014 and in so many cases, has set aside the orders and directed the Labour Commissioner to make reference to the Industrial Tribunal, reference of which have been made in all the writ petitions. Thus, one comes to an inescapable conclusion that these writ petitions are only because of the judgment made by the apex Court and the judgments made by this Court, is suggestive of the fact that the petitioners were fence-sitter and watching what will happen to other cases. The petitioners have not made any murmur till the judgments were made by the apex Court and by this Court in so many cases.” (Emphasis supplied).

6.

7.

8.

“9. It is beaten law of land that delay takes away the settings of law. A person who does not seek relief within time, his petition has to be dismissed only on the grounds of delay and laches, otherwise, it would amount to gross misuse of jurisdiction and disturb the settled position”

19. In view of the aforesaid law laid down by Hon'ble Apex Court, it is clear that though the Court cannot import the period of limitation and the reference cannot be dismissed merely on the ground of delay, it does not mean that irrespective of the facts and circumstances of the case, a stale claim must be entertained and the relief should be granted. In the case of delay, no formula of universal application can be laid down and it would depend on the facts and circumstances of each case. The delay would certainly be fatal if it has resulted in material evidence relevant to the adjudication being lost and rendered unavailable. The onus of showing that the dispute was raised within a reasonable time is upon the workman and it is for the workman to explain the delay by furnishing acceptable explanation to the satisfaction of the Court that he was not responsible for the delay caused.

20. In view of discussion supra, issue No. 1 is answered in negative and claim petition is held not maintainable, answering the issue No. 3 in the affirmative. The petitioner has no

enforceable cause of action to file the petition and accordingly issue No. 5 is answered in affirmative. Though petition is not barred by law of limitation but certainly there is inordinate delay and laches on part of petitioner in approaching the Court, which disentitle him to the relief claimed. Consequently, issue No.6 is answered in negative.

Issue No. 2 :

21. Since petitioner has failed to prove issue No.1, issue No. 2 becomes redundant.

Issue No. 4 :

22. Respondent has failed to establish or prove that the petitioner has not approached the Court with clean hands or concealed true and material facts. Thus, issue No. 4 is answered in negative against the respondent.

Relief :

23. As a sequel to the findings of this Court on the aforesaid issues, the claim of the petitioner fails and is hereby dismissed. Consequently, reference is answered against the petitioner and in favour of respondent. Parties are left to bear their costs. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today this 15th day of December, 2021.

Sd/-
(ARVIND MALHOTRA),
Presiding Judge,
Labour Court-cum-Industrial
Tribunal, Kangra at Dharamshala, H.P.

**IN THE COURT OF SHRI ARVIND MALHOTRA, PRESIDING JUDGE, LABOUR
COURT-CUM-INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (H.P.)**

Ref. No. : 840/2016
Date of Institution : 26-11-2016
Date of Decision : 15-12-2021

Shri Hanif Mohmad s/o Shri Noor Deen, r/o Village Thakoli, P.O. Sihunta, Tehsil Bhatiyat,
District Chamba, H.P. . *Petitioner.*

Versus

The Executive Engineer/Additional Superintending Engineer, Electrical Division,
H.P.S.E.B.L., Dalhousie, District Chamba, H.P. . *Respondent.*

Reference under Section 10 (1) of the Industrial Disputes Act, 1947

For the Petitioner: Sh. Rajinder Thakur, Ld. Advocate

For the Respondent: Sh. Anand Sharma, Ld. Advocate

AWARD

Reference under Section 10(1) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act' for short) to the following effect has been received for adjudication from the appropriate Government:

“Whether alleged termination of the services of Shri Hanif Mohmad s/o Shri Noor Deen, r/o Village Thakoli, P.O. Sihunta, Tehsil Bhatiyat, District Chamba, H.P. during December, 1988 by the Executive Engineer/Additional Superintending Engineer, Electrical Division H.P.S.E.B.L., Dalhousie, District Chamba, H.P. who has worked as beldar on daily wages basis and has raised his industrial dispute *vide* demand notice dated 27-08-2015 after delay of more than 27 years, without complying with the provisions of the Industrial Disputes Act, 1947 is legal and justified? If not, keeping in view of working period of 81 days and delay of more than 27 years in raising the industrial, what amount of back wages, seniority, past service benefits and compensation the above ex-worker is entitled to from the above employer/management?”

2. In nutshell, facts pleaded by petitioner in his statement of claim are that he was engaged as daily waged worker in Electrical Sub Division, HPSEBL, Sihunta, Electrical Division, HPSEBL Dalhousie on 2-1-1988 and worked sincerely upto March, 1998. Respondent used to give fictional breaks on the pretext of non availability of work. At the end of March, 1998, the services of petitioner were terminated by respondent on the ground of non availability of work and he was told to be re-engaged on availability of work as and when required on the basis of seniority prepared by the respondent. It is further pleaded that certain junior persons to petitioner were not only retained but respondent engaged number of persons in daily wages after termination of petitioner. Principle of 'last come first go' is stated to be violated. Number of junior persons are also stated to have been regularized by the respondent. It is also averred that services of petitioner were terminated without issuing any notice. Petitioner served demand notice but respondent brought distorted and unjustified fact before Labour-cum-Conciliation Officer acting contrary to factual position. The respondent stated petitioner to have worked for few days, whereas, petitioner has claimed to have worked with respondent upto March, 1998 completing 240 days in each calendar year. Thus, petitioner prayed for quashing and setting aside termination of his services, reinstatement alongwith consequential benefits *i.e.* continuity in service, seniority, regularization and back wages with interest.

3. Respondent contested the claim by filing reply raising preliminary objections that petitioner has worked as casual labourer *w.e.f.* January, 1988 upto December, 1988 with continuous breaks in service at his own instance. Further that petitioner has not completed 240 days, not approached the Court with clean hands and petitioner has no cause of action as well his claim is hopelessly time barred by limitation and does not fall within the ambit of the Act and therefore claim petition is not maintainable. On merits, similar facts were submitted and respondent pleaded that principle of 'first come last go' is not applicable in this case. Respondent also denied violation of Labour laws. It was further pleaded that petitioner was habitual of absenting himself and left the job without intimation as well did not resume duty nor approached the replying respondent. It is also pleaded that petitioner has never given any representation to the respondent and thus respondent prayed for dismissal of claim petition.

4. Rejoinder was filed by the petitioner denying contents of the reply and reasserting those of the claim petition.

5. On the pleadings of parties, following issues were framed on 20-7-2019:—

1. Whether termination of services of the petitioner during December, 1988 by the respondent is/was illegal and unjustified, as alleged? . . .*OPP*.
2. If issue No.1 is proved in affirmative to what service benefits the petitioner is entitled to? . . .*OPP*.
3. Whether the claim petition is not maintainable, as alleged? . . .*OPR*.
4. Whether the petitioner has not approached the Tribunal with clean hands and has concealed the true and material facts, as alleged? . . .*OPR*.
5. Whether the petitioner has no cause of action to file the petition, as alleged? . . .*OPR*.
6. Whether the petition is barred by limitation, as alleged? . . .*OPR*.

Relief.

6. Evidence was led by the parties to the lis in support of the issues framed.

7. Petitioner as PW1 deposed his claim through his sworn affidavit Ex.PW1/A in consonance with statement of claim. He tendered application dated 13-4-2015 Ex. PW1/B written under Right to Information Act, 2005 by Additional Superintending Engineer, Electrical Division, HPSEBL, Dalhousie informing that no record of daily wagers prior to 1991 is available and after 1991 name of any of the workers mentioned is not registered in their office. In cross-examination PW1 admitted that they were casual labourers and were called only when necessity arose. He denied voluntarily leaving the work. He voluntarily stated that he had given representation for re-engagement. However, stated he could not produce representation given.

8. On the other hand, respondent examined RW1 Shri Rajeev Mahajan, Sr. Executive Engineer, who deposed the defence of respondent as taken in the reply, through his sworn affidavit Ex.RW1/A. He further tendered in evidence mandays chart of petitioner Ex.RW1/B. In cross-examination, he admitted that petitioner was engaged as labourer on muster roll but voluntarily stated him to be engaged as casual labourer. He denied petitioner to have worked till 1998 and voluntarily stated his working till 1988. He claimed ignorance as to who has issued mandays chart Mark-PX and who has signed it. He voluntarily stated the same is not part of their record. He admitted that no notice was issued to the petitioner but self stated the petitioner voluntarily left the work. He denied that after termination of services of petitioner fresh workers were engaged and regularized. He also denied petitioner having worked for 240 days in calendar years. He claimed ignorance how Ex.RW1/B was detailed when department mentioned to have no record available prior to 1991 as per Ex.PW1/B.

9. I have heard learned counsel for the parties at length and carefully perused the material on record.

10. For the reasons to be recorded hereinafter, the findings of this Court on the above issues are as under:—

Issue No. 1 : No

Issue No. 2 : Redundant

Issue No. 3	: Yes
Issue No. 4	: No
Issue No. 5	: Yes
Issue No. 6	: No
Relief.	: Petition is dismissed as per operative part of the Award.

REASONS FOR FINDINGS

Issues No.1, 3, 5 and 6 :

11. All these issues taken up together for discussion and disposal as they are interlinked so as to avoid repetition of facts and evidence.

12. Petitioner's case is that he was given fictional breaks from January, 1988 till March, 1998. However, reference made to this Court by the appropriate Government does not raise issue of fictional breaks during aforesaid period but the issue of alleged termination of services of petitioner during December, 1988, as to whether without complying with the provisions of the Act, the same is illegal and unjustified. Therefore, the issue of alleged fictional breaks is beyond the scope of reference in terms of Section 10 (4) of the Act and as such not to be entertained.

13. Petitioner's pleaded and deposed case through his sworn affidavit Ex. PW1/A is that his services were terminated on the pretext of non availability of work, whereas, certain junior persons to the petitioner in service were retained in violation of principle of 'last come first go'. However, petitioner has not named any such junior person to have been engaged or retained by the respondent after termination of his services. He has neither pleaded nor averred on oath name of any such junior. There is also no evidence; documentary or ocular, proving the fact that any person junior to petitioner was retained by the respondent after termination of services of petitioner. Thus, the principle of 'last come first go' has not been proved to be violated by the respondent.

14. The next plea of petitioner as pleaded and deposed is that many fresh persons were allegedly engaged in the capacity of daily waged worker after termination of the petitioner. However, in this regard also petitioner has failed to plead and depose on oath the name of any such fresh person allegedly engaged as daily waged worker in the same capacity as that of petitioner after termination of his services without affording him opportunity of re-engagement. Consequently, the petitioner has miserably failed to prove violation of Section 25-H of the Act.

15. Last plea of petitioner is termination of his service without issuing any notice. In other words, violation of Section 25-F of the Act. The mandays chart Ex.RW1/B produced by respondent shows petitioner to have worked for 31 days as per muster roll No. 574 dated 5-2-1988, 3 days vide muster roll No. 591 dated 2-3-1988, 5 days vide muster roll No. 612 dated 5-4-1988, 18 days vide muster roll No. 738 dated 2-11-1988 and 24 days vide muster roll No. 756 dated 29-12-1988 totaling 81 days. Petitioner in cross-examination of RW1 has put up mandays chart Mark-PX which shows him to have worked from 1-11-1987 to 22-12-1995 with 50 days in 1987, 49 days in 1988, 80 & 71 days in 1989, 167 & 28 days in 1990, 237 days in 1991, 37 & 198 days in 1992, 354 days in 1993, 353 days in 1994 and 362 days in 1995 but this Mark-PX is photocopy and RW1 has claimed ignorance who has issued Mark-PX and who has signed it. He voluntarily stated the same

is not part of their record. Mark-PX being a photocopy and not admitted by respondent cannot be said to be lawfully proved by the petitioner as the person issuing it has not been examined nor the original of same is produced on record for scrutiny as also no record pertaining to the same has been sought to be produced from the respondent. Furthermore, the period mentioned in Mark-PX goes beyond the duration of alleged termination *i.e.* December, 1988 mentioned in reference and as such cannot be considered in view of Section 10(4) of the Act, as this Court is to confine its adjudication to the points of dispute and matter incidental thereto specified by the appropriate Government. Petitioner being well aware of the reference has never sought any corrigendum in the reference nor ever agitated in this regard. Thus, what remains on record is only mandays chart Ex.RW1/B mentioning the petitioner to have worked for 81 days in year 1988 which mandays chart Ex.RW1/B has not been proved by petitioner to be wrong or against the factual position. Petitioner has thus failed to prove that he worked for 240 days in the preceding twelve calendar months of his termination of services. Consequently, petitioner is not entitled to the protection of Section 25-F of the Act. Thus, it cannot be held that alleged termination of services of petitioner during December, 1988 by respondent was without complying with the provisions of the Act.

16. Another vital aspect of the matter is that petitioner though has pleaded of repeatedly approaching the respondent to reinstate/re-engage him, but no such request or representation has been adduced on record by the petitioner. He has deposed in cross-examination that he cannot produce the alleged representation in the Court. As per reference petitioner has raised the industrial dispute *vide* demand notice dated 27-8-2015 after delay of more than 27 years which fact has not been proved wrong or incorrect by the petitioner. Respondent RW1 Shri Rajeev Mahajan has specifically deposed that petitioner has turned up after more than two decades, therefore, there is no question of equal treatment with junior. RW1 has also specifically deposed that petitioner never gave any representation to the replying respondent. This version of RW1 could not be diluted in cross-examination on behalf of petitioner. Consequently, raising of the demand belatedly after about 27 years of alleged termination of service in December, 1988, the claim of petitioner is certainly stale. In this regard it is apposite to refer judgment of Hon'ble Apex Court in **Assistant Engineer, Rajasthan State Agriculture Marketing Board, Sub Division Kota Vs. Mohan Lal 2013 (14) SCC 543**, wherein it has been held that though the Limitation Act is not applicable to the reference made under the I.D Act but delay in raising industrial Dispute is an important circumstance for exercise of judicial discretion in determining relief that is to be granted. The relevant portion of aforesaid judgment is reproduced as under:

“19. We are clearly of the view that though the Limitation Act, 1963 is not applicable to the reference made under the ID Act but delay in raising industrial dispute is definitely an important circumstance which the Labour Court must keep in view at the time of exercise of discretion irrespective of whether or not such objection has been raised by the other side. The legal position laid down by this Court in Gitam Singh that before exercising its judicial discretion, the Labour Court has to keep in view all relevant factors including the mode and manner of appointment, nature of employment, length of service, the ground on which termination has been set aside and the delay in raising industrial dispute before grant of relief in an industrial dispute, must be invariably followed.”

17. In **State of Karnataka Vs. Ravi Kumar 2009 (13) SCC 746**, Hon'ble Supreme Court dismissed the reference on the ground of delay and it was held that the employer could not be expected to prove after 14 years that the employee did not work or that he did not work for 240 days or he voluntarily left the job. The relevant portion of the aforesaid judgment reads as under:

“9. It is not possible to expect the Asstt. Executive Engineer to prove after 14 years that the daily wager did not work or that he did not work for 240 days in a year or that the daily wager voluntarily left the work.....

18. Hon'ble High Court H.P. in **Bego Devi Versus State of HP and others 2016 Law Suit (H.P.) 2259** has held as under:

“5. As discussed hereinabove, petitioners have chosen to remain in deep slumber for not less than 8-12 years and have come out of deep slumber after more than 8 to 12 years. While going through the writ petitions, it appears that the petitioners remained contented with the orders of their termination and had not made any murmur for making reference. It is only after noticing the judgment of the apex Court in Ajaib Singh versus Sirhind Cooperative Societies Ltd reported in AIR 1999 SC 1351, Raghubir Singh versus General Manager, Haryana Roadways, Hissar, reported in 2014 AIR SCW 5515, which has been relied upon by this Court in a batch of writ petitions, CWP No. 9467 of 2014 titled as Pratap Chand versus Himachal Pradesh State Electricity Board and others, being the lead case, decided on 30-12-2014 and in so many cases, has set aside the orders and directed the Labour Commissioner to make reference to the Industrial Tribunal, reference of which have been made in all the writ petitions. Thus, one comes to an inescapable conclusion that these writ petitions are only because of the judgment made by the apex Court and the judgments made by this Court, is suggestive of the fact that the petitioners were fence-sitter and watching what will happen to other cases. The petitioners have not made any murmur till the judgments were made by the apex Court and by this Court in so many cases.” (Emphasis supplied).

6.

7.

8.

“9. It is beaten law of land that delay takes away the settings of law. A person who does not seek relief within time, his petition has to be dismissed only on the grounds of delay and laches, otherwise, it would amount to gross misuse of jurisdiction and disturb the settled position”

19. In view of the aforesaid law laid down by Hon'ble Apex Court, it is clear that though the Court cannot import the period of limitation and the reference cannot be dismissed merely on the ground of delay, it does not mean that irrespective of the facts and circumstances of the case, a stale claim must be entertained and the relief should be granted. In the case of delay, no formula of universal application can be laid down and it would depend on the facts and circumstances of each case. The delay would certainly be fatal if it has resulted in material evidence relevant to the adjudication being lost and rendered unavailable. The onus of showing that the dispute was raised within a reasonable time is upon the workman and it is for the workman to explain the delay by furnishing acceptable explanation to the satisfaction of Court that he was not responsible for the delay caused.

20. In view of discussion *supra*, issue No.1 is answered in negative and claim petition is held not maintainable, answering the issue No. 3 in the affirmative. The petitioner has no enforceable cause of action to file the petition and accordingly issue No. 5 is answered in affirmative. Though petition is not barred by law of limitation but certainly there is inordinate delay and laches on part of petitioner in approaching the Court, which disentitle him for grant of relief claimed. Consequently, issue No. 6 is answered in negative.

Issue No. 2 :

21. Since petitioner has failed to prove issue no.1, issue no.2 becomes redundant.

Issue No. 4 :

22. Respondent has failed to establish or prove that the petitioner has not approached the Court with clean hands or concealed true and material facts. Thus, issue No. 4 is answered in negative against the respondent.

Relief :

23. As a sequel to the findings of this Court on the aforesaid issues, the claim of the petitioner fails and is hereby dismissed. Consequently, reference is answered against the petitioner and in favour of respondent. Parties are left to bear their costs. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today this 15th day of December, 2021.

Sd/-
(ARVIND MALHOTRA),
Presiding Judge,
Labour Court-cum-Industrial
Tribunal, Kangra at Dharamshala, H.P.

IN THE COURT OF SHRI ARVIND MALHOTRA, PRESIDING JUDGE, LABOUR COURT-CUM-INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (H.P.)

Ref. No. : 761/2016
Date of Institution : 19-11-2016
Date of Decision : 15-12-2021

Shri Desh Raj s/o Shri Munshi Ram, r/o Village Kamla, P.O. Garnota, Tehsil Bhatiyat, District Chamba, H.P. . *Petitioner.*

Versus

The Executive Engineer/Addl. Superintending Engineer, Electrical Division, HPSEBL, Dalhousie, District Chamba, H.P. . *Respondent.*

Reference under Section 10 (1) of the Industrial Disputes Act, 1947

For the Petitioner: Sh. Rajinder Thakur, Ld. Advocate
For the Respondent: Sh. Anand Sharma, Ld. Advocate

AWARD

Reference under Section 10(1) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act' for short) to the following effect has been received for adjudication from the appropriate Government:

“Whether alleged termination of services of Shri Desh Raj s/o Shri Munshi Ram, r/o Village Kamla, P.O. Garnota, Tehsil Bhatiyat, District Chamba, H.P. during 07/1991 by the Executive Engineer/Addl. Superintending Engineer, Electrical Division, HPSEBL, Dalhousie, District Chamba, H.P. who has worked as beldar on daily wages basis and has raised his industrial dispute *vide* demand notice dated nil received in the Labour Office Chamba on 01-5-2015 after more than 24 years, without complying with the provisions of the Industrial Disputes Act, 1947 is legal and justified? If not, keeping in view of working period of 4, 10, 56, 9 and 21 days during years 1987, 1988, 1990 and 1991 and delay of more than 24 years in raising the industrial dispute, what amount of back wages, seniority, past service benefits and compensation the above ex-worker is entitled to from the above employer/management?”

2. In nutshell, facts pleaded by petitioner in his statement of claim are that he was engaged as daily waged worker in Electrical Sub Division, HPSEBL, Sihunta, Electrical Division, HPSEBL Dalhousie in December, 1987 and worked sincerely upto March, 1998. Respondent used to give fictional breaks on the pretext of non availability of work. At the end of March, 1998, the services of petitioner were terminated by respondent on the ground of non availability of work and he was told to be re-engaged on availability of work as and when required on the basis of seniority prepared by the respondent. It is further pleaded that certain junior persons to petitioner were not only retained but respondent engaged number of persons in daily wages after termination of petitioner. Principle of ‘last come first go’ is stated to be violated. Number of junior persons are also stated to have been regularized by the respondent. It is also averred that services of petitioner were terminated without issuing any notice. Petitioner served demand notice but respondent brought distorted and unjustified facts before Labour-cum-Conciliation Officer acting contrary to factual position. The respondent stated petitioner to have worked for 4, 10, 56, 9 and 21 days only in years 1987, 1988, 1989, 1990 and 1991 respectively, whereas, petitioner has claimed to have worked with respondent upto March, 1998 completing 240 days in each calendar year. Thus, petitioner prayed for quashing and setting aside termination of his services, reinstatement alongwith consequential benefits *i.e.* continuity in service, seniority, regularization and back wages with interest.

3. Respondent contested the claim by filing reply raising preliminary objections that petitioner has worked as casual labourer *w.e.f.* December, 1987 upto July, 1991 with continuous breaks in service at his own instance. Further that petitioner has not completed 240 days, not approached the Court with clean hands and petitioner has no cause of action as well his claim is hopelessly time barred by limitation and does not fall within the ambit of the Act and therefore claim petition is not maintainable. On merits, similar facts were submitted and respondent pleaded that principle of ‘first come last go’ is not applicable in this case. Respondent also denied violation of Labour laws. It was further pleaded that petitioner was habitual of absenting himself and left the job without intimation as well did not resume duty nor approached the replying respondent. It is also pleaded that petitioner has never given any representation to the respondent and thus respondent prayed for dismissal of claim petition.

4. Rejoinder was filed by the petitioner denying contents of the reply and reasserting those of the claim petition.

5. On the pleadings of parties, following issues were framed on 20-7-2019:—

1. Whether termination of services of the petitioner during July, 1991 by the respondent is/was illegal and unjustified, as alleged? . . .*OPP.*
2. If issue No.1 is proved in affirmative to what service benefits the petitioner is entitled to? . . .*OPP.*

3. Whether the claim petition is not maintainable, as alleged? . . . *OPR.*
4. Whether the petitioner has not approached the Tribunal with clean hands and has concealed the true and material facts, as alleged? . . . *OPR.*
5. Whether the petitioner has no cause of action to file the petition, as alleged? . . . *OPR.*
6. Whether the petition is barred by limitation, as alleged? . . . *OPR.*

Relief.

6. Evidence was led by the parties to the lis in support of the issues framed.

7. Petitioner as PW1 deposed his claim through his sworn affidavit Ex.PW1/A in consonance with statement of claim. He tendered demand notice Ex.PW1/B, reply to the demand notice Ex.PW1/C and mandays chart Ex.PW1/D in evidence. In cross-examination he admitted that they were casual labourers and were called only when necessity arose. He claimed ignorance when he filed the case. He denied voluntarily leaving the work. He denied that he had not given representation for re-engagement. However, stated he could not produce representation given.

8. On the other hand, respondent examined RW1 Shri Rajeev Mahajan, Sr. Executive Engineer, who deposed the defence of respondent as taken in the reply, through his sworn affidavit Ex.RW1/A. He further tendered in evidence mandays chart of petitioner Ex.RW1/B. In cross-examination, he admitted that petitioner was engaged as labourer on muster roll but voluntarily stated him to be engaged as casual labourer. He admitted that no notice was issued to the petitioner but self stated the petitioner voluntarily left the work. He denied that after termination of services of petitioner, fresh workers were engaged and regularized. He also denied petitioner having worked for 240 days in calendar years.

9. I have heard learned counsel for the parties at length and carefully perused the material on record.

10. For the reasons to be recorded hereinafter, the findings of this Court on the above issues are as under:—

Issue No. 1	: No
Issue No. 2	: Redundant
Issue No. 3	: Yes
Issue No. 4	: No
Issue No. 5	: Yes
Issue No. 6	: No
Relief.	: Petition is dismissed as per operative part of the Award.

REASONS FOR FINDINGS*Issues No.1, 3, 5 and 6 :*

11. All these issues taken up together for discussion and disposal as they are interlinked so as to avoid repetition of facts and evidence.

12. Petitioner's case is that he was given fictional breaks from December, 1987 till March, 1998. However, reference made to this Court by the appropriate Government does not raise issue of fictional breaks during aforesaid period but the issue of alleged termination of services of petitioner during July, 1991, as to whether without complying with the provisions of the Act, the same is illegal and unjustified. Therefore, the issue of alleged fictional breaks is beyond the scope of reference in terms of Section 10(4) of the Act and as such not to be entertained.

13. Petitioner's pleaded and deposed case through his sworn affidavit Ex. PW1/A is that his services were terminated on the pretext of non availability of work whereas certain junior persons to the petitioner in service were retained in violation of principle of 'last come first go'. However, petitioner has not named any such junior person to have been engaged or retained by the respondent after termination of his services. He has neither pleaded nor averred on oath name of any such junior. There is also no evidence; documentary or ocular, proving the fact that any person junior to petitioner was retained by the respondent after termination of services of petitioner. Thus, the principle of 'last come first go' has not been proved to be violated by the respondent.

14. The next plea of petitioner as pleaded and deposed is that many fresh persons were allegedly engaged in the capacity of daily waged worker after termination of the petitioner. However, in this regard also petitioner has failed to plead and depose on oath the name of any such fresh person allegedly engaged as daily waged worker in the same capacity as that of petitioner after termination of his services without affording him opportunity of re-engagement. Consequently, the petitioner has miserably failed to prove violation of Section 25-H of the Act.

15. Last plea of petitioner is termination of his service without issuing any notice. In other words, violation of Section 25-F of the Act. The mandays chart produced by petitioner Ex.PW1/D and also similar mandays chart produced by respondent as Ex.RW1/B show petitioner to have worked for 4 days in December, 1987, 10 days in January, 1988, 25 days in June, 1989, 22 days in July, 1989, 9 days in November, 1989, 9 days in January, 1990 and 21 days in July, 1991 thereby totaling 100 days between December, 1987 to July, 1991. Petitioner has not proved these mandays charts to be wrong or against the factual position. The petitioner has thus failed to prove that he worked for 240 days in the preceding twelve calendar months of his termination of services. Consequently, petitioner is not entitled to the protection of Section 25-F of the Act. Thus, it cannot be held that alleged termination of services of petitioner during July, 1991 by respondent was without complying with the provisions of the Act.

16. Another vital aspect of the matter is that petitioner though has pleaded of repeatedly approaching the respondent to reinstate/re-engage him, but no such request or representation has been adduced on record by the petitioner. He has deposed in cross-examination that he cannot produce the alleged representation in the Court. The petitioner as per demand notice Ex.PW1/B has raised the issue of termination of his service but said demand notice is without date and reply Ex.PW1/C of the respondent to said demand notice is dated 20-11-2015. As per reference demand notice dated nil was received in the Labour Office, Chamba on 1-5-2015 after more than 24 years, which fact has not been proved wrong or incorrect by the petitioner. Respondent RW1 Shri Rajeev Mahajan has specifically deposed that petitioner has turned up after more than two decades, therefore, there is no question of equal treatment with junior. RW1 has also specifically deposed

that petitioner never gave any representation to the replying respondent. This version of RW1 could not be diluted in cross-examination on behalf of petitioner. Consequently, raising of the demand belatedly after about 24 years of alleged termination of service in July, 1991, the claim of petitioner is certainly stale. In this regard it is apposite to refer judgment of Hon'ble Apex Court in **Assistant Engineer, Rajasthan State Agriculture Marketing Board, Sub Division Kota Vs. Mohan Lal 2013 (14) SCC 543**, wherein it has been held that though the Limitation Act is not applicable to the reference made under the I.D Act but delay in raising industrial Dispute is an important circumstance for exercise of judicial discretion in determining relief that is to be granted. The relevant portion of aforesaid judgment is reproduced as under:

“19. We are clearly of the view that though the Limitation Act, 1963 is not applicable to the reference made under the ID Act but delay in raising industrial dispute is definitely an important circumstance which the Labour Court must keep in view at the time of exercise of discretion irrespective of whether or not such objection has been raised by the other side. The legal position laid down by this Court in *Gitam Singh* that before exercising its judicial discretion, the Labour Court has to keep in view all relevant factors including the mode and manner of appointment, nature of employment, length of service, the ground on which termination has been set aside and the delay in raising industrial dispute before grant of relief in an industrial dispute, must be invariably followed.”

17. In **State of Karnataka Vs. Ravi Kumar 2009 (13) SCC 746**, Hon'ble Supreme Court dismissed the reference on the ground of delay and it was held that the employer could not be expected to prove after 14 years that the employee did not work or that he did not work for 240 days or he voluntarily left the job. The relevant portion of the aforesaid judgment reads as under:

“9. It is not possible to expect the Asstt. Executive Engineer to prove after 14 years that the daily wager did not work or that he did not work for 240 days in a year or that the daily wager voluntarily left the work.....

18. Hon'ble High Court H.P. in **Bego Devi Versus State of HP and others 2016 LawSuit (H.P.) 2259** has held as under:

“5. As discussed hereinabove, petitioners have chosen to remain in deep slumber for not less than 8-12 years and have come out of deep slumber after more than 8 to 12 years. While going through the writ petitions, it appears that the petitioners remained contented with the orders of their termination and had not made any murmur for making reference. It is only after noticing the judgment of the apex Court in *Ajaib Singh versus Sirhind Cooperative Societies Ltd* reported in AIR 1999 SC 1351, *Raghubir Singh versus General Manager, Haryana Roadways, Hissar*, reported in 2014 AIR SCW 5515, which has been relied upon by this Court in a batch of writ petitions, CWP No. 9467 of 2014 titled as *Pratap Chand versus Himachal Pradesh State Electricity Board and others*, being the lead case, decided on 30-12-2014 and in so many cases, has set aside the orders and directed the Labour Commissioner to make reference to the Industrial Tribunal, reference of which have been made in all the writ petitions. Thus, one comes to an inescapable conclusion that these writ petitions are only because of the judgment made by the apex Court and the judgments made by this Court, is suggestive of the fact that the petitioners were fence-sitter and watching what will happen to other cases. The petitioners have not made any murmur till the judgments were made by the apex Court and by this Court in so many cases.” (Emphasis supplied).

6.

7.

8.

“9. It is beaten law of land that delay takes away the settings of law. A person who does not seek relief within time, his petition has to be dismissed only on the grounds of delay and laches, otherwise, it would amount to gross misuse of jurisdiction and disturb the settled position”

19. In view of the aforesaid law laid down by Hon'ble Apex Court, it is clear that though the Court cannot import the period of limitation and the reference cannot be dismissed merely on the ground of delay, it does not mean that irrespective of the facts and circumstances of the case, a stale claim must be entertained and the relief should be granted. In the case of delay, no formula of universal application can be laid down and it would depend on the facts and circumstances of each case. The delay would certainly be fatal if it has resulted in material evidence relevant to the adjudication being lost and rendered unavailable. The onus of showing that the dispute was raised within a reasonable time is upon the workman and it is for the workman to explain the delay by furnishing acceptable explanation to the satisfaction of the Court that he was not responsible for the delay caused.

20. In view of discussion supra, issue No. 1 is answered in negative and claim petition is held not maintainable, answering the issue No. 3 in the affirmative. The petitioner has no enforceable cause of action to file the petition and accordingly issue No. 5 is answered in affirmative. Though petition is not barred by law of limitation but certainly there is inordinate delay and laches on part of petitioner in approaching the Court, which disentitles him to the relief claimed. Consequently, issue No. 6 is answered in negative.

Issue No. 2 :

21. Since petitioner has failed to prove issue No.1, issue No. 2 becomes redundant.

Issue No.4 :

22. Respondent has failed to establish or prove that the petitioner has not approached the Court with clean hands or concealed true and material facts. Thus, issue No. 4 is answered in negative against the respondent.

Relief :

23. As a sequel to the findings of this Court on the aforesaid issues, the claim of the petitioner fails and is hereby dismissed. Consequently, reference is answered against the petitioner and in favour of respondent. Parties are left to bear their costs. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today this 15th day of December, 2021.

Sd/-
(ARVIND MALHOTRA),
Presiding Judge,
Labour Court-cum-Industrial
Tribunal, Kangra at Dharamshala, H.P.

IN THE COURT OF SHRI ARVIND MALHOTRA, PRESIDING JUDGE, LABOUR COURT-CUM-INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (H.P.)

Ref. No. : 836/2016

Date of Institution : 26-11-2016

Date of Decision : 15-12-2021

Shri Kaku Ram s/o Shri Mahesh Chand, r/o Village Kamla, P.O. Garnota, Tehsil Bhatiyat, District Chamba, H.P. . *Petitioner.*

Versus

The Additional Superintending Engineer, Electrical Division, H.P.S.E.B.L., Dalhousie, District Chamba, H.P. . *Respondent.*

Reference under Section 10 (1) of the Industrial Disputes Act, 1947

For the Petitioner : Sh. Rajinder Thakur, Ld. Advocate

For the Respondent: Sh. Anand Sharma, Ld. Advocate

AWARD

Reference under Section 10(1) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act' for short) to the following effect has been received for adjudication from the appropriate Government:

“Whether alleged termination of the services of Shri Kaku Ram s/o Shri Mahesh Chand, r/o Village Kamla, P.O. Garnota, Tehsil Bhatiyat, District Chamba, H.P. during August, 1990 by the Additional Superintending Engineer, Electrical Division, H.P.S.E.B.L., Dalhousie, District Chamba, H.P. who has worked as beldar on daily wages basis and has raised his industrial dispute *vide* demand notice dated nil received in Labour Office Chamba on 01-05-2015 after delay of more than 24 years, without complying with the provisions of the Industrial Disputes Act, 1947 is legal and justified? If not, keeping in view of working period for 4,33, 79 and 76 days during the years 1987, 1988, 1989 and 1990 and delay of more than 24 years in raising the industrial dispute, what amount of back wages, seniority, past service benefits and compensation the above ex-worker is entitled to from the above employer/management?”

2. In nutshell, facts pleaded by petitioner in his statement of claim are that he was engaged as daily waged worker in Electrical Sub Division, HPSEBL, Sihunta, Electrical Division, HPSEBL Dalhousie *w.e.f.* 2-1-1988 and worked sincerely upto March, 1998. Respondent used to give fictional breaks on the pretext of non availability of work. At the end of March, 1998, the services of petitioner were terminated by respondent on the ground of non availability of work and he was told to be re-engaged on availability of work as and when required on the basis of seniority prepared by the respondent. It is further pleaded that certain junior persons to petitioner were not only retained but respondent engaged number of persons in daily wages after termination of petitioner. Principle of 'last come first go' is stated to be violated. Number of junior persons are also stated to have been regularized by the respondent. It is also averred that services of petitioner were terminated without issuing any notice. Petitioner served demand notice but respondent

brought distorted and unjustified facts before Labour-*cum*-Conciliation Officer acting contrary to factual position. The respondent stated petitioner to have worked for 4, 33, 79 and 76 days only in years 1987, 1988, 1989 and 1990 respectively, whereas, petitioner has claimed to have worked with respondent upto March, 1998 completing 240 days in each calendar year. Thus, petitioner prayed for quashing and setting aside termination of his services, reinstatement alongwith consequential benefits *i.e.* continuity in service, seniority, regularization and back wages with interest.

3. Respondent contested the claim by filing reply raising preliminary objections that petitioner has worked as casual labourer *w.e.f.* December, 1987 upto August, 1990 with continuous breaks in service at his own instance. Further that petitioner has not completed 240 days, not approached the Court with clean hands and petitioner has no cause of action as well his claim is hopelessly time barred by limitation and does not fall within the ambit of the Act and therefore claim petition is not maintainable. On merits, similar facts were submitted and respondent pleaded that principle of 'first come last go' is not applicable in this case. Respondent also denied violation of Labour laws. It was further pleaded that petitioner was habitual of absenting himself and left the job without intimation as well did not resume duty nor approached the replying respondent. It is also pleaded that petitioner has never given any representation to the respondent and thus respondent prayed for dismissal of claim petition.

4. Rejoinder was filed by the petitioner denying contents of the reply and reasserting those of the claim petition.

5. On the pleadings of parties, following issues were framed on 20-7-2019:—

1. Whether termination of services of the petitioner during August, 1990 by the respondent is/was illegal and unjustified, as alleged? . . .*OPP.*
2. If issue No. 1 is proved in affirmative to what service benefits the petitioner is entitled to? . . .*OPP.*
3. Whether the claim petition is not maintainable, as alleged? . . .*OPR.*
4. Whether the petitioner has not approached the Tribunal with clean hands and has concealed the true and material facts, as alleged? . . .*OPR.*
5. Whether the petitioner has no cause of action to file the petition, as alleged? . . .*OPR.*
6. Whether the petition is barred by limitation, as alleged? . . .*OPR.*

Relief.

6. Evidence was led by the parties to the lis in support of the issues framed.

7. Petitioner as PW1 deposed his claim through his sworn affidavit Ex.PW1/A in consonance with statement of claim. He tendered demand notice Ex.PW1/B, reply to the demand notice Ex.PW1/C and mandays chart Ex.PW1/D in evidence. In cross-examination he admitted that they were casual labourers and were called only when necessity arose. He claimed ignorance when he filed the case. He denied voluntarily leaving the work. He denied that he had not given representation for re-engagement. However, stated he could not produce representation given.

8. On the other hand, respondent examined RW1 Shri Rajeev Mahajan, Sr. Executive Engineer, who deposed the defence of respondent as taken in the reply, through his sworn affidavit

Ex.RW1/A. He further tendered in evidence mandays chart of petitioner Ex.RW1/B. In cross-examination, he admitted that petitioner was engaged as labourer on muster roll but voluntarily stated him to be engaged as casual labourer. He admitted that no notice was issued to the petitioner but self stated the petitioner voluntarily left the work. He denied that after termination of services of petitioner, fresh workers were engaged and regularized. He also denied petitioner having worked for 240 days in calendar years.

9. I have heard learned counsel for the parties at length and carefully perused the material on record.

10. For the reasons to be recorded hereinafter, the findings of this Court on the above issues are as under:—

Issue No. 1	: No
Issue No. 2	: Redundant
Issue No. 3	: Yes
Issue No. 4	: No
Issue No. 5	: Yes
Issue No. 6	: No
Relief.	: Petition is dismissed as per operative part of the Award.

REASONS FOR FINDINGS

Issues No.1, 3, 5 and 6 :

11. All these issues taken up together for discussion and disposal as they are interlinked so as to avoid repetition of facts and evidence.

12. Petitioner's case is that he was given fictional breaks from January, 1988 till March, 1998. However, reference made to this Court by the appropriate Government does not raise issue of fictional breaks during aforesaid period but the issue of alleged termination of services of petitioner during August, 1990, as to whether without complying with the provisions of the Act, the same is illegal and unjustified. Therefore, the issue of alleged fictional breaks is beyond the scope of reference in terms of Section 10(4) of the Act and as such not to be entertained.

13. Petitioner's pleaded and deposed case through his sworn affidavit Ex. PW1/A is that his services were terminated on the pretext of non availability of work whereas certain junior persons to the petitioner in service were retained in violation of principle of 'last come first go'. However, petitioner has not named any such junior person to have been engaged or retained by the respondent after termination of his services. He has neither pleaded nor averred on oath name of any such junior. There is also no evidence; documentary or ocular, proving the fact that any person junior to petitioner was retained by the respondent after termination of services of petitioner. Thus, the principle of 'last come first go' has not been proved to be violated by the respondent.

14. The next plea of petitioner as pleaded and deposed is that many fresh persons were allegedly engaged in the capacity of daily waged worker after termination of the petitioner. However, in this regard also petitioner has failed to plead and depose on oath the name of any such fresh person allegedly engaged as daily waged worker in the same capacity as that of petitioner after termination of his services without affording him opportunity of re-engagement. Consequently, the petitioner has miserably failed to prove violation of Section 25-H of the Act.

15. Last plea of petitioner is termination of his service without issuing any notice. In other words, violation of Section 25-F of the Act. The mandays chart produced by petitioner Ex.PW1/D and also similar mandays chart produced by respondent as Ex.RW1/B show petitioner to have worked for 4 days in December, 1987, 10 days in January, 1988, 23 days in November, 1988, 13 days in February, 1989, 19 days in June, 1989, 27 days in October, 1989, 11 days in November, 1989, 20 days in February, 1990, 26 days in March, 1990, 29 days in July, 1990 and 1 day in August, 1990 thereby totaling 192 days between December, 1987 to August, 1990. Petitioner has not proved these mandays charts to be wrong or against the factual position. The petitioner has thus failed to prove that he worked for 240 days in the preceding twelve calendar months of his termination of services. Consequently, petitioner is not entitled to the protection of Section 25-F of the Act. Thus, it cannot be held that alleged termination of services of petitioner during August, 1990 by respondent was without complying with the provisions of the Act.

16. Another vital aspect of the matter is that petitioner though has pleaded of repeatedly approaching the respondent to reinstate/re-engage him, but no such request or representation has been adduced on record by the petitioner. He has deposed in cross-examination that he cannot produce the alleged representation in the Court. The petitioner as per demand notice Ex.PW1/B has raised the issue of termination of his service but said demand notice is without date and reply Ex.PW1/C of the respondent to said demand notice is dated 20-11-2015. As per reference demand notice dated nil was received in the Labour Office, Chamba on 1-5-2015 after more than 24 years, which fact has not been proved wrong or incorrect by the petitioner. Respondent RW1 Shri Rajeev Mahajan has specifically deposed that petitioner has turned up after more than two decades, therefore, there is no question of equal treatment with junior. RW1 has also specifically deposed that petitioner never gave any representation to the replying respondent. This version of RW1 could not be diluted in cross-examination on behalf of petitioner. Consequently, raising of the demand belatedly after about 24 years of alleged termination of service in August, 1990, the claim of petitioner is certainly stale. In this regard it is apposite to refer judgment of Hon'ble Apex Court in Assistant Engineer, Rajasthan State Agriculture Marketing Board, Sub Division Kota Vs. Mohan Lal 2013 (14) SCC 543, wherein it has been held that though the Limitation Act is not applicable to the reference made under the I.D Act but delay in raising industrial Dispute is an important circumstance for exercise of judicial discretion in determining relief that is to be granted. The relevant portion of aforesaid judgment is reproduced as under:

“19. We are clearly of the view that though the Limitation Act, 1963 is not applicable to the reference made under the ID Act but delay in raising industrial dispute is definitely an important circumstance which the Labour Court must keep in view at the time of exercise of discretion irrespective of whether or not such objection has been raised by the other side. The legal position laid down by this Court in *Gitam Singh* that before exercising its judicial discretion, the Labour Court has to keep in view all relevant factors including the mode and manner of appointment, nature of employment, length of service, the ground on which termination has been set aside and the delay in raising industrial dispute before grant of relief in an industrial dispute, must be invariably followed.”

17. In State of Karnataka Vs. Ravi Kumar 2009 (13) SCC 746, Hon'ble Supreme Court dismissed the reference on the ground of delay and it was held that the employer could not be

expected to prove after 14 years that the employee did not work or that he did not work for 240 days or he voluntarily left the job. The relevant portion of the aforesaid judgment reads as under:

“9. It is not possible to expect the Asstt. Executive Engineer to prove after 14 years that the daily wager did not work or that he did not work for 240 days in a year or that the daily wager voluntarily left the work.....

18. Hon’ble High Court H.P. in **Bego Devi Versus State of H.P. and others 2016 Law Suit (H.P.) 2259** has held as under:

“5. As discussed hereinabove, petitioners have chosen to remain in deep slumber for not less than 8-12 years and have come out of deep slumber after more than 8 to 12 years. While going through the writ petitions, it appears that the petitioners remained contented with the orders of their termination and had not made any murmur for making reference. It is only after noticing the judgment of the apex Court in Ajaib Singh versus Sirhind Cooperative Societies Ltd reported in AIR 1999 SC 1351, Raghubir Singh versus General Manager, Haryana Roadways, Hissar, reported in 2014 AIR SCW 5515, which has been relied upon by this Court in a batch of writ petitions, CWP No. 9467 of 2014 titled as Pratap Chand versus Himachal Pradesh State Electricity Board and others, being the lead case, decided on 30-12-2014 and in so many cases, has set aside the orders and directed the Labour Commissioner to make reference to the Industrial Tribunal, reference of which have been made in all the writ petitions. Thus, one comes to an inescapable conclusion that these writ petitions are only because of the judgment made by the apex Court and the judgments made by this Court, is suggestive of the fact that the petitioners were fence-sitter and watching what will happen to other cases. The petitioners have not made any murmur till the judgments were made by the apex Court and by this Court in so many cases.” (Emphasis supplied).

6.

7.

8.

“9. It is beaten law of land that delay takes away the settings of law. A person who does not seek relief within time, his petition has to be dismissed only on the grounds of delay and laches, otherwise, it would amount to gross misuse of jurisdiction and disturb the settled position”

19. In view of the aforesaid law laid down by Hon'ble Apex Court, it is clear that though the Court cannot import the period of limitation and the reference cannot be dismissed merely on the ground of delay, it does not mean that irrespective of the facts and circumstances of the case, a stale claim must be entertained and the relief should be granted. In the case of delay, no formula of universal application can be laid down and it would depend on the facts and circumstances of each case. The delay would certainly be fatal if it has resulted in material evidence relevant to the adjudication being lost and rendered unavailable. The onus of showing that the dispute was raised within a reasonable time is upon the workman and it is for the workman to explain the delay by furnishing acceptable explanation to the satisfaction of the Court that he was not responsible for the delay caused.

20. In view of discussion supra, issue No. 1 is answered in negative and claim petition is held not maintainable, answering the issue No. 3 in the affirmative. The petitioner has no

enforceable cause of action to file the petition and accordingly issue No. 5 is answered in affirmative. Though petition is not barred by law of limitation but certainly there is inordinate delay and laches on part of petitioner in approaching the Court, which disentitle him to the relief claimed. Consequently, issue No. 6 is answered in negative.

Issue No. 2 :

21. Since petitioner has failed to prove issue no.1, issue no.2 becomes redundant.

Issue No. 4 :

22. Respondent has failed to establish or prove that the petitioner has not approached the Court with clean hands or concealed true and material facts. Thus, issue No. 4 is answered in negative against the respondent.

Relief :

23. As a sequel to the findings of this Court on the aforesaid issues, the claim of the petitioner fails and is hereby dismissed. Consequently, reference is answered against the petitioner and in favour of respondent. Parties are left to bear their costs. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today this 15th day of December, 2021.

Sd/-
(ARVIND MALHOTRA),
Presiding Judge,
Labour Court-cum-Industrial
Tribunal, Kangra at Dharamshala, H.P.

**IN THE COURT OF SHRI ARVIND MALHOTRA, PRESIDING JUDGE, LABOUR
COURT-CUM-INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (H.P.)**

Ref. No. : 764/2016
Date of Institution : 19-11-2016
Date of Decision : 15-12-2021

Shri Jagdish Chand s/o Shri Duni Chand, r/o Village Kamla, P.O. Garnota, Tehsil Bhatiyat,
District Chamba, H.P. . . . *Petitioner.*

Versus

The Executive Engineer/Addl. Superintending Engineer, Electrical Division, HPSEBL,
Dalhousie, District Chamba, H.P. . . . *Respondent.*

Reference under Section 10 (1) of the Industrial Disputes Act, 1947

For the Petitioner: Sh. Rajinder Thakur, Ld. Advocate

For the Respondent: Sh. Anand Sharma, Ld. Advocate

AWARD

Reference under Section 10(1) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act' for short) to the following effect has been received for adjudication from the appropriate Government:

“Whether alleged termination of services of Shri Jagdish Chand s/o Shri Duni Chand, r/o Village Kamla, P.O. Garnota, Tehsil Bhatiyat, District Chamba, H.P. during 12/1989 by the Executive Engineer/Addl. Superintending Engineer, Electrical Division, HPSEBL, Dalhousie, District Chamba, H.P. who has worked as beldar on daily wages basis and has raised his industrial dispute *vide* demand notice dated nil received in the Labour Office Chamba on 01-05-2015 after more than 26 years, without complying with the provisions of the Industrial Disputes Act, 1947 is legal and justified? If not, keeping in view of working period of 46 days during year 1989 and delay of more than 26 years in raising the industrial dispute, what amount of back wages, seniority, past service benefits and compensation the above ex-worker is entitled to from the above employer/ management?”

2. In nutshell, facts pleaded by petitioner in his statement of claim are that he was engaged as daily waged worker in Electrical Sub Division, HPSEBL, Sihunta, Electrical Division, HPSEBL Dalhousie *w.e.f.* 2-1-1988 and worked sincerely upto March, 1998. Respondent used to give fictional breaks on the pretext of non availability of work. At the end of March, 1998, the services of petitioner were terminated by respondent on the ground of non availability of work and he was told to be re-engaged on availability of work as and when required on the basis of seniority prepared by the respondent. It is further pleaded that certain junior persons to petitioner were not only retained but respondent engaged number of persons in daily wages after termination of petitioner. Principle of 'last come first go' is stated to be violated. Number of junior persons are also stated to have been regularized by the respondent. It is also averred that services of petitioner were terminated without issuing any notice. Petitioner served demand notice but respondent brought distorted and unjustified fact before Labour-cum-Conciliation Officer acting contrary to factual position. The respondent stated petitioner to have worked for 46 days only in year 1989, whereas, petitioner has claimed to have worked with respondent upto March, 1998 completing 240 days in each calendar year. Thus, petitioner prayed for quashing and setting aside termination of his services, reinstatement alongwith consequential benefits i.e. continuity in service, seniority, regularization and back wages with interest.

4. Respondent contested the claim by filing reply raising preliminary objections that petitioner has worked as casual labourer *w.e.f.* June, 1989 upto December, 1989 with continuous breaks in service at his own instance. Further that petitioner has not completed 240 days, not approached the Court with clean hands and petitioner has no cause of action as well his claim is hopelessly time barred by limitation and does not fall within the ambit of the Act and therefore claim petition is not maintainable. On merits, similar facts were submitted and respondent pleaded that principle of 'first come last go' is not applicable in this case. Respondent also denied violation of Labour laws. It was further pleaded that petitioner was habitual of absenting himself and left the job without intimation as well did not resume duty nor approached the replying respondent. It is also pleaded that petitioner has never given any representation to the respondent and thus respondent prayed for dismissal of claim petition.

5. Rejoinder was filed by the petitioner denying contents of the reply and reasserting those of the claim petition.

6. On the pleadings of parties, following issues were framed on 20-7-2019:—

1. Whether termination of services of the petitioner during December, 1989 by the respondent is/was illegal and unjustified, as alleged? . . .*OPP*.
2. If issue No.1 is proved in affirmative to what service benefits the petitioner is entitled to? . . .*OPP*.
3. Whether the claim petition is not maintainable, as alleged? . . .*OPR*.
4. Whether the petitioner has not approached the Tribunal with clean hands and has concealed the true and material facts, as alleged? . . .*OPR*.
5. Whether the petitioner has no cause of action to file the petition, as alleged? . . .*OPR*.
6. Whether the petition is barred by limitation, as alleged? . . .*OPR*.

Relief.

7. Evidence was led by the parties to the lis in support of the issues framed.

8. Petitioner as PW1 deposed his claim through his sworn affidavit Ex.PW1/A in consonance with statement of claim. He tendered reply to the demand notice Ex.PW1/B and mandays chart Ex.PW1/C in evidence. In cross-examination he admitted that they were casual labourers and were called when necessity arose. He claimed ignorance when he filed the case. He denied voluntarily leaving the work. He self stated that he had given petition for engagement. However, stated he could not produce petition given.

9. On the other hand, respondent examined RW1 Shri Rajeev Mahajan, Sr. Executive Engineer, who deposed the defence of respondent as taken in the reply, through his sworn affidavit Ex.RW1/A. He further tendered in evidence mandays chart of petitioner Ex.RW1/B. In cross-examination, he admitted that petitioner was engaged as labourer on muster roll but voluntarily stated him to be engaged as casual labourer. He admitted that no notice was issued to the petitioner but self stated the petitioner voluntarily left the work. He denied that after termination of services of petitioner, fresh workers were engaged and regularized. He also denied petitioner having worked for 240 days in calendar years.

10. I have heard learned counsel for the parties at length and carefully perused the material on record.

11. For the reasons to be recorded hereinafter, the findings of this Court on the above issues are as under:—

Issue No. 1	: No
Issue No. 2	: Redundant
Issue No. 3	: Yes
Issue No. 4	: No
Issue No. 5	: Yes

Issue No. 6

: No

Relief.

: Petition is dismissed as per operative part of the Award.

REASONS FOR FINDINGS

Issues No. 1, 3, 5 and 6 :

12. All these issues taken up together for discussion and disposal as they are interlinked so as to avoid repetition of facts and evidence.

13. Petitioner's case is that he was given fictional breaks from January, 1988 till March, 1998. However, reference made to this Court by the appropriate Government does not raise issue of fictional breaks during aforesaid period but the issue of alleged termination of services of petitioner during December, 1989, as to whether without complying with the provisions of the Act, the same is illegal and unjustified. Therefore, the issue of alleged fictional breaks is beyond the scope of reference in terms of Section 10(4) of the Act and as such not to be entertained.

14. Petitioner's pleaded and deposed case through his sworn affidavit Ex. PW1/A is that his services were terminated on the pretext of non availability of work whereas certain junior persons to the petitioner in service were retained in violation of principle of 'last come first go'. However, petitioner has not named any such junior person to have been engaged or retained by the respondent after termination of his services. He has neither pleaded nor averred on oath name of any such junior. There is also no evidence; documentary or ocular, proving the fact that any person junior to petitioner was retained by the respondent after termination of services of petitioner. Thus, the principle of 'last come first go' has not been proved to be violated by the respondent.

15. The next plea of petitioner as pleaded and deposed is that many fresh persons were allegedly engaged in the capacity of daily waged worker after termination of the petitioner. However, in this regard also petitioner has failed to plead and depose on oath the name of any such fresh person allegedly engaged as daily waged worker in the same capacity as that of petitioner after termination of his services without affording him opportunity of re-engagement. Consequently, the petitioner has miserably failed to prove violation of Section 25-H of the Act.

16. Last plea of petitioner is termination of his service without issuing any notice. In other words, violation of Section 25-F of the Act. The mandays chart produced by petitioner Ex. PW1/C and also similar mandays chart produced by respondent as Ex. RW1/B show petitioner to have worked for 18 days in June, 1989, 9 days in July, 1989, 12 days in August, 1989 and 7 days in December, 1989 thereby totaling 46 days between June, 1989 to December, 1989. Petitioner has not proved these mandays charts to be wrong or against the factual position. The petitioner has thus failed to prove that he worked for 240 days in the preceding twelve calendar months of his termination of services. Consequently, petitioner is not entitled to the protection of Section 25-F of the Act. Thus, it cannot be held that alleged termination of services of petitioner during December, 1989 by respondent was without complying with the provisions of the Act.

17. Another vital aspect of the matter is that petitioner though has pleaded of repeatedly approaching the respondent to reinstate/re-engage him, but no such request or representation has been adduced on record by the petitioner. He has deposed in cross-examination that he cannot produce the alleged given petition in the Court. As per reference demand notice dated nil was received in the Labour Office, Chamba on 1-5-2015 after more than 26 years, which fact has not been proved wrong or incorrect by the petitioner. Respondent RW1 Shri Rajeev Mahajan has

specifically deposed that petitioner has turned up after more than two decades, therefore, there is no question of equal treatment with junior. RW1 has also specifically deposed that petitioner never gave any representation to the replying respondent. This version of RW1 could not be diluted in cross-examination on behalf of petitioner. Consequently, raising of the demand belatedly after about 26 years of alleged termination of service in December, 1989, the claim of petitioner is certainly stale. In this regard it is apposite to refer judgment of Hon'ble Apex Court in **Assistant Engineer, Rajasthan State Agriculture Marketing Board, Sub Division Kota Vs. Mohan Lal 2013 (14) SCC 543**, wherein it has been held that though the Limitation Act is not applicable to the reference made under the I.D. Act but delay in raising industrial Dispute is an important circumstance for exercise of judicial discretion in determining relief that is to be granted. The relevant portion of aforesaid judgment is reproduced as under:

“19. We are clearly of the view that though the Limitation Act, 1963 is not applicable to the reference made under the ID Act but delay in raising industrial dispute is definitely an important circumstance which the Labour Court must keep in view at the time of exercise of discretion irrespective of whether or not such objection has been raised by the other side. The legal position laid down by this Court in *Gitam Singh* that before exercising its judicial discretion, the Labour Court has to keep in view all relevant factors including the mode and manner of appointment, nature of employment, length of service, the ground on which termination has been set aside and the delay in raising industrial dispute before grant of relief in an industrial dispute, must be invariably followed.”

18. In **State of Karnataka Vs. Ravi Kumar 2009 (13) SCC 746**, Hon'ble Supreme Court dismissed the reference on the ground of delay and it was held that the employer could not be expected to prove after 14 years that the employee did not work or that he did not work for 240 days or he voluntarily left the job. The relevant portion of the aforesaid judgment reads as under:

“9. It is not possible to expect the Asstt. Executive Engineer to prove after 14 years that the daily wager did not work or that he did not work for 240 days in a year or that the daily wager voluntarily left the work.....

19. Hon'ble High Court H.P. in **Bego Devi Versus State of H.P. and others 2016 Law Suit (H.P.) 2259** has held as under:

“5. As discussed hereinabove, petitioners have chosen to remain in deep slumber for not less than 8-12 years and have come out of deep slumber after more than 8 to 12 years. While going through the writ petitions, it appears that the petitioners remained contented with the orders of their termination and had not made any murmur for making reference. It is only after noticing the judgment of the apex Court in *Ajaib Singh versus Sirhind Cooperative Societies Ltd* reported in AIR 1999 SC 1351, *Raghubir Singh versus General Manager, Haryana Roadways, Hissar*, reported in 2014 AIR SCW 5515, which has been relied upon by this Court in a batch of writ petitions, CWP No. 9467 of 2014 titled as *Pratap Chand versus Himachal Pradesh State Electricity Board and others*, being the lead case, decided on 30-12-2014 and in so many cases, has set aside the orders and directed the Labour Commissioner to make reference to the Industrial Tribunal, reference of which have been made in all the writ petitions. Thus, one comes to an inescapable conclusion that these writ petitions are only because of the judgment made by the apex Court and the judgments made by this Court, is suggestive of the fact that the petitioners were fence-sitter and watching what will happen to other cases. The petitioners have not made any murmur till the judgments were made by the apex Court and by this Court in so many cases.” (Emphasis supplied).

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“9. It is beaten law of land that delay takes away the settings of law. A person who does not seek relief within time, his petition has to be dismissed only on the grounds of delay and laches, otherwise, it would amount to gross misuse of jurisdiction and disturb the settled position”

20. In view of the aforesaid law laid down by Hon'ble Apex Court, it is clear that though the Court cannot import the period of limitation and the reference cannot be dismissed merely on the ground of delay, it does not mean that irrespective of the facts and circumstances of the case, a stale claim must be entertained and the relief should be granted. In the case of delay, no formula of universal application can be laid down and it would depend on the facts and circumstances of each case. The delay would certainly be fatal if it has resulted in material evidence relevant to the adjudication being lost and rendered unavailable. The onus of showing that the dispute was raised within a reasonable time is upon the workman and it is for the workman to explain the delay by furnishing acceptable explanation to the satisfaction of the Court that he was not responsible for the delay caused.

21. In view of discussion supra, issue No.1 is answered in negative and claim petition is held not maintainable, answering the issue No. 3 in the affirmative. The petitioner has no enforceable cause of action to file the petition and accordingly issue No. 5 is answered in affirmative. Though petition is not barred by law of limitation but certainly there is inordinate delay and laches on part of petitioner in approaching the Court, which disentitle him to the relief claimed. Consequently, issue No.6 is answered in negative.

Issue No. 2 :

22. Since petitioner has failed to prove issue No. 1, issue No. 2 becomes redundant.

Issue No. 4 :

23. Respondent has failed to establish or prove that the petitioner has not approached the Court with clean hands or concealed true and material facts. Thus, issue No. 4 is answered in negative against the respondent.

Relief :

24. As a sequel to the findings of this Court on the aforesaid issues, the claim of the petitioner fails and is hereby dismissed. Consequently, reference is answered against the petitioner and in favour of respondent. Parties are left to bear their costs. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today this 15th day of December, 2021.

Sd/-
(ARVIND MALHOTRA),
Presiding Judge,
Labour Court-cum-Industrial
Tribunal, Kangra at Dharamshala, H.P.

IN THE COURT OF SHRI ARVIND MALHOTRA, PRESIDING JUDGE, LABOUR COURT-CUM-INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (H.P.)

Ref. No. : 837/2016

Date of Institution : 26-11-2016

Date of Decision : 15-12-2021

Shri Ruldu Ram s/o Shri Bir Singh, r/o Village Jhanglehed, P.O. Sihunta, Tehsil Bhatiyat, District Chamba, H.P. . *Petitioner.*

Versus

The Additional Superintending Engineer, Electrical Division, H.P.S.E.B.L., Dalhousie, District Chamba, H.P. . *Respondent.*

Reference under Section 10 (1) of the Industrial Disputes Act, 1947

For the Petitioner: Sh. Rajinder Thakur, Ld. Advocate

For the Respondent: Sh. Anand Sharma, Ld. Advocate

AWARD

Reference under Section 10(1) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act' for short) to the following effect has been received for adjudication from the appropriate Government:

“Whether alleged termination of the services of Shri Ruldu Ram s/o Shri Bir Singh, r/o Village Jhanglehed, P.O. Sihunta, Tehsil Bhatiyat, District Chamba, H.P. during January, 1990 by the Additional Superintending Engineer, Electrical Division, H.P.S.E.B.L., Dalhousie, District Chamba, H.P. who has worked as beldar on daily wages basis and has raised his industrial dispute *vide* demand notice dated nil received in Labour Office Chamba on 01-05-2015 after delay of more than 25 years, without complying with the provisions of the Industrial Disputes Act, 1947 is legal and justified? If not, keeping in view of working period from January, 1985 to December, 1989 and delay of more than 25 years in raising the industrial dispute, what amount of back wages, seniority, past service benefits and compensation the above ex-worker is entitled to from the above employer/management?”

2. In nutshell, facts pleaded by petitioner in his statement of claim are that he was engaged as daily waged worker in Electrical Sub Division, HPSEBL, Sihunta, Electrical Division, HPSEBL Dalhousie in January, 1985 and worked sincerely upto December, 1989. Respondent used to give fictional breaks on the pretext of non availability of work. At the end of December, 1989, the services of petitioner were terminated by respondent on the ground of non availability of work and he was told to be re-engaged on availability of work as and when required on the basis of seniority prepared by the respondent. It is further pleaded that certain junior persons to petitioner were not only retained but respondent engaged number of persons in daily wages after termination of petitioner. Principle of ‘last come first go’ is stated to be violated. Number of junior persons are also stated to have been regularized by the respondent. It is also averred that services of petitioner were terminated without issuing any notice. Petitioner served demand notice but respondent brought distorted and unjustified facts before Labour-cum-Conciliation Officer acting contrary to

factual position. The respondent stated petitioner to have worked for few days, whereas, petitioner has claimed to have worked with respondent upto December, 1989 completing 240 days in each calendar year. Thus, petitioner prayed for quashing and setting aside termination of his services, reinstatement alongwith consequential benefits *i.e.* continuity in service, seniority, regularization and back wages with interest.

3. Respondent contested the claim by filing reply raising preliminary objections that petitioner has not approached the Court with clean hands and petitioner has no cause of action as well his claim is hopelessly time barred by limitation and does not fall within the ambit of the Act and therefore claim petition is not maintainable. On merits, respondent has categorically denied that petitioner was ever engaged on daily waged basis with HPSEBL and further submitted that his name does not appear in the roll in record of respondent. It was further averred that petitioner might be an employee of any contractor to whom any particular work might have been given on outsource basis. Respondent pleaded that principle of 'first come last go' is not applicable in this case. It was further pleaded that petitioner never completed 240 days as he never worked as daily wagger with the respondent. Respondent also denied engaging any labour after leaving the job of petitioner and thus respondent prayed for dismissal of claim petition.

4. Rejoinder was filed by the petitioner denying contents of the reply and reasserting those of the claim petition.

5. On the pleadings of parties, following issues were framed on 20-7-2019:—

1. Whether termination of services of the petitioner during January, 1990 by the respondent is/was illegal and unjustified, as alleged? . . .*OPP.*
2. If issue No.1 is proved in affirmative to what service benefits the petitioner is entitled to? . . .*OPP.*
3. Whether the claim petition is not maintainable, as alleged? . . .*OPR.*
4. Whether the petitioner has not approached the Tribunal with clean hands and has concealed the true and material facts, as alleged? . . .*OPR.*
5. Whether the petitioner has no cause of action to file the petition, as alleged? . . .*OPR.*
6. Whether the petition is barred by limitation, as alleged? . . .*OPR.*

Relief.

6. Evidence was led by the parties to the lis in support of the issues framed.

7. Petitioner as PW1 deposed his claim through his sworn affidavit Ex.PW1/A in consonance with statement of claim. He tendered in evidence demand notice Ex.PW1/B. In cross-examination he denied doing any work in HPSEBL Division Dalhousie and ever working there. He further deposed that he cannot produce any document regarding his working with the respondent. Though, voluntarily stated that the record was with the respondent. He denied that he had not given representation for re-engagement. However, stated he could not produce representation given.

8. On the other hand, respondent examined RW1 Shri Rajeev Mahajan, Sr. Executive Engineer, who deposed the defence of respondent as taken in the reply, through his sworn affidavit Ex.RW1/A. In cross-examination, he admitted that no notice was issued to the petitioner but self

stated that petitioner was never engaged as labourer. He denied that after termination of services of petitioner fresh workers were engaged and regularized. He also denied petitioner having worked for more than 240 days in calendar years.

9. I have heard learned counsel for the parties at length and carefully perused the material on record.

10. For the reasons to be recorded hereinafter, the findings of this Court on the above issues are as under:—

Issue No. 1 : No

Issue No. 2 : Redundant

Issue No. 3 : Yes

Issue No. 4 : No

Issue No. 5 : Yes

Issue No. 6 : No

Relief. : Petition is dismissed as per operative part of the Award.

REASONS FOR FINDINGS

Issues No.1, 3, 5 And 6 :

11. All these issues taken up together for discussion and disposal as they are interlinked so as to avoid repetition of facts and evidence.

12. Petitioner though has claimed to be engaged as daily waged worker by the respondent in month of January, 1985 and alleged to have worked upto December, 1989 but this fact has been categorically denied by the respondent. Petitioner has not adduced any documentary evidence or other independent ocular evidence apart from his statement to the effect that he was engaged as daily waged worker in January, 1985 and worked upto December, 1989. On the other hand, RW1 Shri Rajeev Mahajan has categorically deposed on oath that claimant has never been engaged on daily wages with HPSEBL and his name does not appear in the roll in record of respondent. Thus, petitioner has failed to prove the basic plea qua his employment as daily wagger with the respondent and as no relationship of employer and employee has been established/proved by the petitioner, there is no question of termination of his alleged services.

13. Petitioner's case is that he was given fictional breaks from January, 1985 till December, 1989. However, reference made to this Court by the appropriate Government does not raise issue of fictional breaks during aforesaid period but the issue of alleged termination of services of petitioner during January, 1990 as to whether without complying with the provisions of the Act, the same is illegal and unjustified. Therefore, the issue of alleged fictional breaks is beyond the scope of reference as per Section 10(4) of the Act and as such not to be entertained.

14. Petitioner's pleaded and deposed case through his sworn affidavit Ex. PW1/A is that his services were terminated on the pretext of non availability of work whereas certain junior

persons to the petitioner in service were retained in violation of principle of 'last come first go'. However, petitioner has not named any such junior person to have been engaged or retained by the respondent after alleged termination of his services. He has neither pleaded nor averred on oath name of any such junior. There is also no evidence; documentary or ocular, proving the fact that any person junior to petitioner was retained by the respondent after alleged termination of services of petitioner. Thus, the principle of 'last come first go' has not been proved to be violated by the respondent.

15. The next plea of petitioner as pleaded and deposed is that many fresh persons were allegedly engaged in the capacity of daily waged worker after alleged termination of the petitioner. However, in this regard also petitioner has failed to plead and depose on oath the name of any such fresh person allegedly engaged as daily waged worker in the same capacity as that of petitioner after termination of his alleged services without affording him opportunity of re-engagement. Consequently, the petitioner has miserably failed to prove violation of Section 25-H of the Act.

16. Another vital aspect of the matter is that petitioner though has pleaded of repeatedly approaching the respondent to reinstate/re-engage him, but no such request or representation has been adduced on record by the petitioner. He has deposed in cross-examination that he cannot produce the alleged representation in the Court. The petitioner as per demand notice Ex.PW1/B has raised the issue of termination of his alleged service but said demand notice is without date. As per reference demand notice dated nil was received in the Labour Office, Chamba on 1-5-2015 after delay of more than 25 years, which fact has not been proved wrong or incorrect by the petitioner. Consequently, raising of the demand belatedly after about 25 years of alleged termination of service in January, 1990, the claim of petitioner is certainly stale. In this regard it is apposite to refer judgment of Hon'ble Apex Court in Assistant Engineer, Rajasthan State Agriculture Marketing Board, Sub Division Kota Vs. Mohan Lal 2013 (14) SCC 543, wherein it has been held that though the Limitation Act is not applicable to the reference made under the I.D Act but delay in raising industrial Dispute is an important circumstance for exercise of judicial discretion in determining relief that is to be granted. The relevant portion of aforesaid judgment is reproduced as under:

"19. We are clearly of the view that though the Limitation Act, 1963 is not applicable to the reference made under the ID Act but delay in raising industrial dispute is definitely an important circumstance which the Labour Court must keep in view at the time of exercise of discretion irrespective of whether or not such objection has been raised by the other side. The legal position laid down by this Court in *Gitam Singh* that before exercising its judicial discretion, the Labour Court has to keep in view all relevant factors including the mode and manner of appointment, nature of employment, length of service, the ground on which termination has been set aside and the delay in raising industrial dispute before grant of relief in an industrial dispute, must be invariably followed."

17. In State of Karnataka Vs. Ravi Kumar 2009 (13) SCC 746, Hon'ble Supreme Court dismissed the reference on the ground of delay and it was held that the employer could not be expected to prove after 14 years that the employee did not work or that he did not work for 240 days or he voluntarily left the job. The relevant portion of the aforesaid judgment reads as under:

"9. It is not possible to expect the Asstt. Executive Engineer to prove after 14 years that the daily wager did not work or that he did not work for 240 days in a year or that the daily wager voluntarily left the work....."

18. Hon'ble High Court H.P. in Bego Devi Versus State of H.P. and others 2016 LawSuit (H.P.) 2259 has held as under:

“5. As discussed hereinabove, petitioners have chosen to remain in deep slumber for not less than 8-12 years and have come out of deep slumber after more than 8 to 12 years. While going through the writ petitions, it appears that the petitioners remained contented with the orders of their termination and had not made any murmur for making reference. It is only after noticing the judgment of the apex Court in *Ajaib Singh versus Sirhind Cooperative Societies Ltd* reported in AIR 1999 SC 1351, *Raghubir Singh versus General Manager, Haryana Roadways, Hissar*, reported in 2014 AIR SCW 5515, which has been relied upon by this Court in a batch of writ petitions, CWP No. 9467 of 2014 titled as *Pratap Chand versus Himachal Pradesh State Electricity Board and others*, being the lead case, decided on 30-12-2014 and in so many cases, has set aside the orders and directed the Labour Commissioner to make reference to the Industrial Tribunal, reference of which have been made in all the writ petitions. Thus, one comes to an inescapable conclusion that these writ petitions are only because of the judgment made by the apex Court and the judgments made by this Court, is suggestive of the fact that the petitioners were fence-sitter and watching what will happen to other cases. The petitioners have not made any murmur till the judgments were made by the apex Court and by this Court in so many cases.” (Emphasis supplied).

6.

7.

8.

“9. It is beaten law of land that delay takes away the settings of law. A person who does not seek relief within time, his petition has to be dismissed only on the grounds of delay and laches, otherwise, it would amount to gross misuse of jurisdiction and disturb the settled position”

19. In view of the aforesaid law laid down by Hon'ble Apex Court, it is clear that though the Court cannot import the period of limitation and the reference cannot be dismissed merely on the ground of delay, it does not mean that irrespective of the facts and circumstances of the case, a stale claim must be entertained and the relief should be granted. In the case of delay, no formula of universal application can be laid down and it would depend on the facts and circumstances of each case. The delay would certainly be fatal if it has resulted in material evidence relevant to the adjudication being lost and rendered unavailable. The onus of showing that the dispute was raised within a reasonable time is upon the workman and it is for the workman to explain the delay by furnishing acceptable explanation to the satisfaction of the Court that he was not responsible for the delay caused.

20. In view of discussion supra, issue no.1 is answered in negative and claim petition is held not maintainable, answering the issue No. 3 in the affirmative. The petitioner has no enforceable cause of action to file the petition and accordingly issue No. 5 is answered in affirmative. Though petition is not barred by law of limitation but certainly there is inordinate delay and laches on part of petitioner in approaching the Court, which disentitle him to the relief claimed. Consequently, issue No.6 is answered in negative.

Issue No. 2 :

21. Since petitioner has failed to prove issue no.1, issue No. 2 becomes redundant.

Issue No. 4 :

22. Respondent has failed to establish or prove that the petitioner has not approached the Court with clean hands or concealed true and material facts. Thus, issue No. 4 is answered in negative against the respondent.

Relief:

23. As a sequel to the findings of this Court on the aforesaid issues, the claim of the petitioner fails and is hereby dismissed. Consequently, reference is answered against the petitioner and in favour of respondent. Parties are left to bear their costs. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today this 15th day of December, 2021.

Sd/-
(ARVIND MALHOTRA),
Presiding Judge,
Labour Court-cum-Industrial
Tribunal, Kangra at Dharamshala, H.P.

IN THE COURT OF SHRI ARVIND MALHOTRA, PRESIDING JUDGE, LABOUR COURT-CUM-INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (H.P.)

Ref. No. : 838/2016
Date of Institution : 26-11-2016
Date of Decision : 15-12-2021

Shri Kaliyan Singh s/o Shri Munshi Ram, r/o Village Kamla, P.O. Garnota, Tehsil Bhatiyat, District Chamba, H.P. . *Petitioner.*

Versus

The Additional Superintending Engineer, Electrical Division, HPSEBL, Dalhousie, District Chamba, H.P. . *Respondent .*

Reference under Section 10 (1) of the Industrial Disputes Act, 1947

For the Petitioner: Sh. Rajinder Thakur, Ld. Advocate
For the Respondent: Sh. Anand Sharma, Ld. Advocate

AWARD

Reference under Section 10(1) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act' for short) to the following effect has been received for adjudication from the appropriate Government:

“Whether alleged termination of the services of Shri Kaliyan Singh s/o Shri Munshi Ram, r/o Village Kamla, P.O. Garnota, Tehsil Bhatiyat, District Chamba, H.P. during August, 1990 by the Additional Superintending Engineer, Electrical Division H.P.S.E.B.L, Dalhousie, District Chamba, H.P. who has worked as beldar on daily wages basis and has raised his industrial dispute *vide* demand notice dated nil received in Labour Office Chamba on 01-05-2015 after delay of more than 24 years, without complying with the provisions of the Industrial Disputes Act, 1947 is legal and justified? If not, keeping in view of working period of 51 and 113 days during June, 1989 to August, 1990 and delay of more than 24 years in raising the industrial dispute, what amount of back wages, seniority, past service benefits and compensation the above ex-worker is entitled to from the above employer/management?”

2. In nutshell, facts pleaded by petitioner in his statement of claim are that he was engaged as daily waged worker in Electrical Sub Division, HPSEBL, Sihunta, Electrical Division, HPSEBL Dalhousie in year 1988 and worked sincerely upto March, 1998. Respondent used to give fictional breaks on the pretext of non availability of work. At the end of March, 1998, the services of petitioner were terminated by respondent on the ground of non availability of work and he was told to be re-engaged on availability of work as and when required on the basis of seniority prepared by the respondent. It is further pleaded that certain junior persons to petitioner were not only retained but respondent engaged number of persons in daily wages after termination of petitioner. Principle of ‘last come first go’ is stated to be violated. Number of junior persons are also stated to have been regularized by the respondent. It is also averred that services of petitioner were terminated without issuing any notice. Petitioner served demand notice but respondent brought distorted and unjustified fact before Labour-cum-Conciliation Officer acting contrary to factual position. The respondent stated petitioner to have worked for 51 and 113 days in year 1989 and 1990 respectively, whereas, petitioner has claimed to have worked with respondent completing 240 days in each calendar year. Thus, petitioner prayed for quashing and setting aside termination of his services, reinstatement alongwith consequential benefits *i.e.* continuity in service, seniority, regularization and back wages with interest.

3. Respondent contested the claim by filing reply raising preliminary objections that petitioner has worked as casual labourer *w.e.f.* June, 1989 upto August, 1990 with continuous breaks in service at his own instance. Further that petitioner has not completed 240 days, not approached the Court with clean hands and petitioner has no cause of action as well his claim is hopelessly time barred by limitation and does not fall within the ambit of the Act and therefore claim petition is not maintainable. On merits, similar facts were submitted and respondent pleaded that principle of ‘first come last go’ is not applicable in this case. Respondent also denied violation of Labour laws. It was further pleaded that petitioner was habitual of absenting himself and left the job without intimation as well did not resume duty nor approached the replying respondent. It is also pleaded that petitioner has never given any representation to the respondent and thus respondent prayed for dismissal of claim petition.

4. Rejoinder was filed by the petitioner denying contents of the reply and reasserting those of the claim petition.

5. On the pleadings of parties, following issues were framed on 20-7-2019:—

1. Whether termination of services of the petitioner during August, 1990 by the respondent is/was illegal and unjustified, as alleged? . . .*OPP.*
2. If issue No. 1 is proved in affirmative to what service benefits the petitioner is entitled to? . . .*OPP.*

3. Whether the claim petition is not maintainable, as alleged? . . .*OPR.*
4. Whether the petitioner has not approached the Tribunal with clean hands and has concealed the true and material facts, as alleged? . . .*OPR.*
5. Whether the petitioner has no cause of action to file the petition, as alleged? . . .*OPR.*
6. Whether the petition is barred by limitation, as alleged? . . .*OPR.*

Relief.

6. Evidence was led by the parties to the lis in support of the issues framed.

7. Petitioner as PW1 deposed his claim through his sworn affidavit Ex.PW1/A in consonance with statement of claim. He tendered reply to the demand notice Ex.PW1/B and mandays chart Ex.PW1/C in evidence. In cross-examination he admitted that they were casual labourers and were called only when necessity arose. He claimed ignorance when he filed the case. He denied voluntarily leaving the work. He self stated that he had given petition for engagement. However, stated he could not produce petition given.

8. On the other hand, respondent examined RW1 Shri Rajeev Mahajan, Sr. Executive Engineer, who deposed the defence of respondent as taken in the reply, through his sworn affidavit Ex.RW1/A. He further tendered in evidence mandays chart of petitioner Ex.RW1/B. In cross-examination, he admitted that petitioner was engaged as labourer on muster roll but voluntarily stated him to be engaged as casual labourer. He admitted that no notice was issued to the petitioner but self stated the petitioner voluntarily left the work. He denied that after termination of services of petitioner, fresh workers were engaged and regularized. He also denied petitioner having worked for 240 days in calendar years.

9. I have heard learned counsel for the parties at length and carefully perused the material on record.

10. For the reasons to be recorded hereinafter, the findings of this Court on the above issues are as under:—

Issue No. 1	: No
Issue No. 2	: Redundant
Issue No. 3	: Yes
Issue No. 4	: No
Issue No. 5	: Yes
Issue No. 6	: No
Relief.	: Petition is dismissed as per operative part of the Award.

REASONS FOR FINDINGS

Issues No.1, 3, 5 and 6 :

11. All these issues taken up together for discussion and disposal as they are interlinked so as to avoid repetition of facts and evidence.

12. Petitioner's case is that he was given fictional breaks from year 1988 till March, 1998. However, reference made to this Court by the appropriate Government does not raise issue of fictional breaks during aforesaid period but the issue of alleged termination of services of petitioner during August, 1990, as to whether without complying with the provisions of the Act, the same is illegal and unjustified. Therefore, the issue of alleged fictional breaks is beyond the scope of reference in terms of Section 10 (4) of the Act and as such not to be entertained.

13. Petitioner's pleaded and deposed case through his sworn affidavit Ex. PW1/A is that his services were terminated on the pretext of non availability of work whereas certain junior persons to the petitioner in service were retained in violation of principle of 'last come first go'. However, petitioner has not named any such junior person to have been engaged or retained by the respondent after termination of his services. He has neither pleaded nor averred on oath name of any such junior. There is also no evidence; documentary or ocular, proving the fact that any person junior to petitioner was retained by the respondent after termination of services of petitioner. Thus, the principle of 'last come first go' has not been proved to be violated by the respondent.

14. The next plea of petitioner as pleaded and deposed is that many fresh persons were allegedly engaged in the capacity of daily waged worker after termination of the petitioner. However, in this regard also petitioner has failed to plead and depose on oath the name of any such fresh person allegedly engaged as daily waged worker in the same capacity as that of petitioner after termination of his services without affording him opportunity of re-engagement. Consequently, the petitioner has miserably failed to prove violation of Section 25-H of the Act.

15. Last plea of petitioner is termination of his service without issuing any notice. In other words, violation of Section 25-F of the Act. The mandays chart produced by petitioner Ex. PW1/C and also similar mandays chart produced by respondent as Ex. RW1/B show petitioner to have worked for 9 days in June, 1989, 30 days in July, 1989, 12 days in October, 1989, 15 days in January, 1990, 19 days in February, 1990, 28 days in March, 1990, 22 days in July, 1990 and 29 days in August, 1990, thereby totaling 164 days between June, 1989 to August, 1990. Petitioner has not proved these mandays charts to be wrong or against the factual position. The petitioner has thus failed to prove that he worked for 240 days in the preceding twelve calendar months of his termination of services. Consequently, petitioner is not entitled to the protection of Section 25-F of the Act. Thus, it cannot be held that alleged termination of services of petitioner during August, 1990 by respondent was without complying with the provisions of the Act.

16. Another vital aspect of the matter is that petitioner though has pleaded of repeatedly approaching the respondent to reinstate/re-engage him, but no such request or representation has been adduced on record by the petitioner. He has deposed in cross-examination that he cannot produce in Court the alleged given petition. As per reference demand notice dated nil was received in the Labour Office, Chamba on 1-5-2015 after more than 24 years, which fact has not been proved wrong or incorrect by the petitioner. Respondent RW1 Shri Rajeev Mahajan has specifically deposed that petitioner has turned up after more than two decades, therefore, there is no question of equal treatment with junior. RW1 has also specifically deposed that petitioner never gave any representation to the replying respondent. This version of RW1 could not be diluted in cross-examination on behalf of petitioner. Consequently, raising of the demand belatedly after more than 24 years of alleged termination of service in August, 1990, the claim of petitioner is certainly stale. In this regard it is apposite to refer judgment of Hon'ble Apex Court in Assistant Engineer, Rajasthan State Agriculture Marketing Board, Sub Division Kota Vs. Mohan Lal 2013 (14) SCC 543, wherein it has been held that though the Limitation Act is not applicable to the reference made

under the I.D. Act but delay in raising industrial Dispute is an important circumstance for exercise of judicial discretion in determining relief that is to be granted. The relevant portion of aforesaid judgment is reproduced as under:

“19. We are clearly of the view that though the Limitation Act, 1963 is not applicable to the reference made under the ID Act but delay in raising industrial dispute is definitely an important circumstance which the Labour Court must keep in view at the time of exercise of discretion irrespective of whether or not such objection has been raised by the other side. The legal position laid down by this Court in *Gitam Singh* that before exercising its judicial discretion, the Labour Court has to keep in view all relevant factors including the mode and manner of appointment, nature of employment, length of service, the ground on which termination has been set aside and the delay in raising industrial dispute before grant of relief in an industrial dispute, must be invariably followed.”

17. In ***State of Karnataka Vs. Ravi Kumar 2009 (13) SCC 746***, Hon'ble Supreme Court dismissed the reference on the ground of delay and it was held that the employer could not be expected to prove after 14 years that the employee did not work or that he did not work for 240 days or he voluntarily left the job. The relevant portion of the aforesaid judgment reads as under:

“9. It is not possible to expect the Asstt. Executive Engineer to prove after 14 years that the daily wager did not work or that he did not work for 240 days in a year or that the daily wager voluntarily left the work.....

18. Hon'ble High Court H.P. in ***Bego Devi Versus State of H.P. and others 2016 Law Suit (H.P.) 2259*** has held as under:

“5. As discussed hereinabove, petitioners have chosen to remain in deep slumber for not less than 8-12 years and have come out of deep slumber after more than 8 to 12 years. While going through the writ petitions, it appears that the petitioners remained contented with the orders of their termination and had not made any murmur for making reference. It is only after noticing the judgment of the apex Court in *Ajaib Singh versus Sirhind Cooperative Societies Ltd* reported in AIR 1999 SC 1351, *Raghubir Singh versus General Manager, Haryana Roadways, Hissar*, reported in 2014 AIR SCW 5515, which has been relied upon by this Court in a batch of writ petitions, CWP No. 9467 of 2014 titled as *Pratap Chand versus Himachal Pradesh State Electricity Board and others*, being the lead case, decided on 30-12-2014 and in so many cases, has set aside the orders and directed the Labour Commissioner to make reference to the Industrial Tribunal, reference of which have been made in all the writ petitions. Thus, one comes to an inescapable conclusion that these writ petitions are only because of the judgment made by the apex Court and the judgments made by this Court, is suggestive of the fact that the petitioners were fence-sitter and watching what will happen to other cases. The petitioners have not made any murmur till the judgments were made by the apex Court and by this Court in so many cases.” (Emphasis supplied).

6.

7.

8.

“9. It is beaten law of land that delay takes away the settings of law. A person who does not seek relief within time, his petition has to be dismissed only on the grounds of delay and

laches, otherwise, it would amount to gross misuse of jurisdiction and disturb the settled position”

19. In view of the aforesaid law laid down by Hon'ble Apex Court, it is clear that though the Court cannot import the period of limitation and the reference cannot be dismissed merely on the ground of delay, it does not mean that irrespective of the facts and circumstances of the case, a stale claim must be entertained and the relief should be granted. In the case of delay, no formula of universal application can be laid down and it would depend on the facts and circumstances of each case. The delay would certainly be fatal if it has resulted in material evidence relevant to the adjudication being lost and rendered unavailable. The onus of showing that the dispute was raised within a reasonable time is upon the workman and it is for the workman to explain the delay by furnishing acceptable explanation to the satisfaction of Court that he was not responsible for the delay caused.

20. In view of discussion supra, issue No. 1 is answered in negative and claim petition is held not maintainable, answering the issue No. 3 in the affirmative. The petitioner has no enforceable cause of action to file the petition and accordingly issue No. 5 is answered in affirmative. Though petition is not barred by law of limitation but certainly there is inordinate delay and laches on part of petitioner in approaching the Court, which disentitle him to the relief claimed. Consequently, issue No. 6 is answered in negative.

Issue No. 2 :

21. Since petitioner has failed to prove issue No. 1, issue No. 2 becomes redundant.

Issue No. 4 :

22. Respondent has failed to establish or prove that the petitioner has not approached the Court with clean hands or concealed true and material facts. Thus, issue No. 4 is answered in negative against the respondent.

Relief :

23. As a sequel to the findings of this Court on the aforesaid issues, the claim of the petitioner fails and is hereby dismissed. Consequently, reference is answered against the petitioner and in favour of respondent. Parties are left to bear their costs. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today this 15th day of December, 2021.

Sd/-
(ARVIND MALHOTRA),
Presiding Judge,
Labour Court-cum-Industrial
Tribunal, Kangra at Dharamshala, H.P.

IN THE COURT OF SHRI ARVIND MALHOTRA, PRESIDING JUDGE, LABOUR COURT-CUM-INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (H.P.)

Ref. No. : 76/2017

Date of Institution : 23-2-2017

Date of Decision : 16-12-2021

Shri Shanta Kumar s/o Shri Hoshiyar Chand, r/o Village Findpar, P.O. Mindhal, Tehsil Pangi, District Chamba, H.P. . *Petitioner.*

Versus

The Executive Engineer, HPPWD Division, Killar at Pangi, Tehsil Pangi, District Chamba, H.P. . *Respondent.*

Reference under Section 10 (1) of the Industrial Disputes Act, 1947

For the Petitioner : None for the petitioner

For Respondent : Sh. D. K. Chaudhary, Ld. Deputy District Attorney

AWARD

Reference under Section 10(1) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act' for short) to the following effect has been received for adjudication from the appropriate Government:

"Whether alleged termination of services of Sh. Shanta Kumar s/o Sh. Hoshiyar Chand Village Findpur P.O. Mindhal Tehsil Pangi Distt. Chamba, H.P. during 12/1998, by the Executive Engineer, HPPWD Division, Killar at Pangi, Tehsil Pangi, District Chamba, H.P. who had worked as beldar on daily wages basis during the years 1996 to 2003 only for 638 days and has raised his industrial dispute vide demand notice dated 2-9-2013 after more than 11 years, without complying with the provisions of the Industrial Disputes Act, 1947 is legal and justified? If not, keeping in view of working period as mentioned above and delay of more than 11 years in raising the industrial dispute, what amount of back wages, seniority, past service benefits and compensation the above ex-worker is entitled to from the above employer/management?"

2. The petitioner was proceeded *ex parte* on 26-11-2021 as despite personal service and due notice of the date of hearing, the workman/petitioner had absented from appearing in the Court and remained *ex parte*.

3. It will be apt at this stage to take note of the relevant provisions of the Industrial Disputes Act, 1947. Section 2 (b) of the Act defines the Award as under:—

"(b) "award" means an interim or a final determination of any industrial dispute or of any question relating thereto by any Labour Court, Industrial Tribunal or National Industrial Tribunal and includes an arbitration award made under Section 10A;"

4. Sub-Section (1) of Section 11 of the Act provides that subject to any rules that may be made in this behalf, an arbitrator, a Board, Court, Labour Court, Tribunal or National Tribunal shall follow such procedure as the arbitrator or other authority concerned may think it fit.

5. The State of Himachal Pradesh has framed rules called “The Industrial Disputes Rules, 1974.” Rule 25 thereof reads thus:—

“Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator may proceed ex-parte.—If without sufficient cause being shown, any party to the proceeding before a Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator fails to attend or to be represented, the Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator may proceed, as if the party had duly attended or had been represented.”

6. Rule 25 of the Industrial Disputes Rules, 1974 authorizes the adjudicating authority to proceed in the absence of a party. It creates a fiction which enables the Labour Court to presume that all the parties are present before it although, infact, it is not true, and thus make an *ex parte* award. This Tribunal in these circumstances has to imagine that the absentee workman is present and having done so, can give full effect to its imagination and carry it to its logical end. Under Rule 25, this Court, thus, has to imagine that the worker is present, he is unwilling to file the statement of claim, adduce evidence or argue his case.

7. In the instant case, neither the worker nor his counsel has put in appearance before this Tribunal on 26-11-2021 at Chamba, despite due notice. In these circumstances, the Labour Court can proceed and pass *ex-parte* award on its merits.

8. As per the reference, it was required of the petitioner to plead and prove on record that the termination of his services during 12/1998 by the respondent was without complying with the provisions of the Act and, thus, illegal and unjustified. However, there is neither any pleading nor any evidence to this effect adduced by the petitioner/worker. At the risk of repetition it is observed that the petitioner/worker had not put in appearance before this Court on 26-11-2021 despite due notice and has remained *ex-parte*. In this view of the matter, the petitioner is not entitled to any back wages, seniority, past service benefits and compensation. Accordingly, this reference is answered in above terms. Parties are left to bear their costs.

9. A copy of this Award be sent to the appropriate Government for necessary action at its end and the file after due completion be consigned to the Record Room.

Announced in the open Court today this 16th day of December, 2021.

Sd/-
(ARVIND MALHOTRA),
Presiding Judge,
Labour Court-cum-Industrial
Tribunal, Kangra at Dharamshala, H.P.

IN THE COURT OF SHRI ARVIND MALHOTRA, PRESIDING JUDGE, LABOUR COURT-CUM-INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (H.P.)

Ref. No. : 369/2016
Date of Institution : 27-5-2016
Date of Decision : 16-12-2021

Shri Des Raj s/o Shri Gian Chand, r/o VPO Luj, Tehsil Pangi, District Chamba, H.P.

. .Petitioner.

Versus

The Executive Engineer, H.P.P.W.D. Division Killar, (Pangi), District Chamba, H.P.

. .Respondent.

Reference under Section 10 (1) of the Industrial Disputes Act, 1947

For the Petitioner: None for the petitioner

For Respondent: Sh. D. K. Chaudhary, Ld. Deputy District Attorney

AWARD

Reference under Section 10(1) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act' for short) to the following effect has been received for adjudication from the appropriate Government:

"Whether alleged termination of services of Shri Des Raj, s/o Shri Gian Chand, r/o V.P.O. Luj, Tehsil Pangi, District Chamba, H.P. from 1-12-1993 by the Executive Engineer, H.P.P.W.D. Division Killar (Pangi) District Chamba, H.P., who has worked as beldar on daily wages basis and has raised his industrial dispute *vide* demand notice dated 18-07-2013 after more than 20 years, allegedly without complying with the provisions of the Industrial Disputes Act, 1947 is legal and justified. If not, keeping in view of working period of 30 days during year 1993 and delay of more than 20 years in raising the industrial dispute, what amount of back wages, seniority, past service benefits and compensation the above ex-worker is entitled to from the above employer/management?"

2. The petitioner was proceeded *ex parte* on 26-11-2021 as despite personal service and due notice of the date of hearing, the workman/petitioner had absented from appearing in the Court and remained *ex parte*.

3. It will be apt at this stage to take note of the relevant provisions of the Industrial Disputes Act, 1947. Section 2 (b) of the Act defines the Award as under:—

"(b) "award" means an interim or a final determination of any industrial dispute or of any question relating thereto by any Labour Court, Industrial Tribunal or National Industrial Tribunal and includes an arbitration award made under Section 10A;"

4. Sub-Section (1) of Section 11 of the Act provides that subject to any rules that may be made in this behalf, an arbitrator, a Board, Court, Labour Court, Tribunal or National Tribunal shall follow such procedure as the arbitrator or other authority concerned may think it fit.

5. The State of Himachal Pradesh has framed rules called "The Industrial Disputes Rules, 1974." Rule 25 thereof reads thus:—

"Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator may proceed ex-parte.—If without sufficient cause being shown, any party to the proceeding before a Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator fails to attend or to be represented, the Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator may proceed, as if the party had duly attended or had been represented."

6. Rule 25 of the Industrial Disputes Rules, 1974 authorizes the adjudicating authority to proceed in the absence of a party. It creates a fiction which enables the Labour Court to presume that all the parties are present before it although, infact, it is not true, and thus make an *ex parte* award. This Tribunal in these circumstances has to imagine that the absentee workman is present and having done so, can give full effect to its imagination and carry it to its logical end. Under Rule 25, this Court, thus, has to imagine that the worker is present, he is unwilling to file the statement of claim, adduce evidence or argue his case.

7. In the instant case, neither the worker nor his counsel has put in appearance before this Tribunal on 26-11-2021 at Chamba, despite due notice. In these circumstances, the Labour Court can proceed and pass *ex parte* award on its merits.

8. As per the reference, it was required of the petitioner to plead and prove on record that the termination of his services from 01-12-1993 by the respondent was without complying with the provisions of the Act and, thus, illegal and unjustified. However, there is neither any pleading nor any evidence to this effect adduced by the petitioner/worker. At the risk of repetition it is observed that the petitioner/worker had not put in appearance before this Court on 26-11-2021 despite due notice and has remained *ex-parte*. In this view of the matter, the petitioner is not entitled to any back wages, seniority, past service benefits and compensation. Accordingly, this reference is answered in above terms. Parties are left to bear their costs.

9. A copy of this Award be sent to the appropriate Government for necessary action at its end and the file after due completion be consigned to the Record Room.

Announced in the open Court today this 16th day of December, 2021.

Sd/-
(ARVIND MALHOTRA),
Presiding Judge,
Labour Court-cum-Industrial
Tribunal, Kangra at Dharamshala, H.P.

**IN THE COURT OF SHRI ARVIND MALHOTRA, PRESIDING JUDGE, LABOUR
COURT-CUM-INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (H.P.)**

Ref. No. : 73/2017
Date of Institution : 23-2-2017
Date of Decision : 16-12-2021

Shri Gian Chand s/o Smt. Gari, r/o Village Leo, P.O. Sahali, Tehsil Pangi, District Chamba,
H.P. . *Petitioner.*

Versus

The Executive Engineer, H.P.P.W.D. Division, Pangi at Killar, Tehsil Pangi, District
Chamba, H.P. . *Respondent.*

Reference under Section 10 (1) of the Industrial Disputes Act, 1947

For the Petitioner:

None for the petitioner

For Respondent :

Sh. D.K. Chaudhary, Ld. Deputy District Attorney

AWARD

Reference under Section 10(1) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act' for short) to the following effect has been received for adjudication from the appropriate Government:

"Whether alleged termination of services of Sh. Gian Chand s/o Smt. Gari Village Leo P.O. Sahali Tehsil Pangi, Distt. Chamba, H.P. during 9/2004, by the Executive Engineer, HPPWD Division, Pangi at Killar, Tehsil Pangi, District Chamba, H.P. who had worked as beldar on daily wages basis during the years 1996 to 1998 and thereafter during the years 2002 & 2004 only for 411 days and has raised his industrial dispute *vide* demand notice dated 26-8-2012 after more than 7 years, without complying with the provisions of the Industrial Disputes Act, 1947 is legal and justified? If not, keeping in view of working period as mentioned above and delay of more than 7 years in raising the industrial dispute, what amount of back wages, seniority, past service benefits and compensation the above ex-worker is entitled to from the above employer/management?"

2. The petitioner was proceeded *ex parte* on 26-11-2021 as despite personal service and due notice of the date of hearing, the workman/petitioner had absented from appearing in the Court and remained *ex parte*.

3. It will be apt at this stage to take note of the relevant provisions of the Industrial Disputes Act, 1947. Section 2 (b) of the Act defines the Award as under:—

"(b) 'award' means an interim or a final determination of any industrial dispute or of any question relating thereto by any Labour Court, Industrial Tribunal or National Industrial Tribunal and includes an arbitration award made under Section 10A;".

4. Sub-Section (1) of Section 11 of the Act provides that subject to any rules that may be made in this behalf, an arbitrator, a Board, Court, Labour Court, Tribunal or National Tribunal shall follow such procedure as the arbitrator or other authority concerned may think it fit.

5. The State of Himachal Pradesh has framed rules called "The Industrial Disputes Rules, 1974." Rule 25 thereof reads thus:—

"Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator may proceed ex-parte.—If without sufficient cause being shown, any party to the proceeding before a Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator fails to attend or to be represented, the Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator may proceed, as if the party had duly attended or had been represented."

6. Rule 25 of the Industrial Disputes Rules, 1974 authorizes the adjudicating authority to proceed in the absence of a party. It creates a fiction which enables the Labour Court to presume that all the parties are present before it although, infact, it is not true, and thus make an *ex parte* award. This Tribunal in these circumstances has to imagine that the absentee workman is present and having done so, can give full effect to its imagination and carry it to its logical end. Under Rule 25, this Court, thus, has to imagine that the worker is present, he is unwilling to file the statement of claim, adduce evidence or argue his case.

7. In the instant case, neither the worker nor his counsel has put in appearance before this Tribunal on 26-11-2021 at Chamba, despite due notice. In these circumstances, the Labour Court can proceed and pass *ex parte* award on its merits.

8. As per the reference, it was required of the petitioner to plead and prove on record that the termination of his services during 09/2004 by the respondent was without complying with the provisions of the Act and, thus, illegal and unjustified. However, there is neither any pleading nor any evidence to this effect adduced by the petitioner/worker. At the risk of repetition it is observed that the petitioner/worker had not put in appearance before this Court on 26-11-2021 despite due notice and has remained *ex-parte*. In this view of the matter, the petitioner is not entitled to any back wages, seniority, past service benefits and compensation. Accordingly, this reference is answered in above terms. Parties are left to bear their costs.

9. A copy of this Award be sent to the appropriate Government for necessary action at its end and the file after due completion be consigned to the Record Room.

Announced in the open Court today this 16th day of December, 2021.

Sd/-
(ARVIND MALHOTRA),
Presiding Judge,
Labour Court-cum-Industrial
Tribunal, Kangra at Dharamshala, H.P.

IN THE COURT OF SHRI ARVIND MALHOTRA, PRESIDING JUDGE, LABOUR COURT-CUM-INDUSTRIAL TRIBUNAL, KANGRA AT DHARAMSHALA (H.P.)

Ref. No. : 348/2016

Date of Institution : 26-5-2016

Date of Decision : 16-12-2021

Shri Sham Singh s/o Shri Shiv Lal, r/o V.P.O. Luj, Tehsil Pangi, District Chamba, H.P.

. .Petitioner.

Versus

The Executive Engineer, Killar Division, H.P.P.W.D. Killar, Tehsil Pangi, District Chamba, H.P.

. .Respondent.

Reference under Section 10 (1) of the Industrial Disputes Act, 1947

For the Petitioner: None for the petitioner

For Respondent : Sh. D. K. Chaudhary, Ld. Deputy District Attorney

AWARD

Reference under Section 10(1) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act' for short) to the following effect has been received for adjudication from the appropriate Government:

“Whether alleged termination of services of Shri Sham Singh, s/o Shiv Lal, r/o V.P.O. Luj, Tehsil Pangi, District Chamba, H.P. during 10/1994 by the Executive Engineer, Killar Division, H.P.P.W.D. Killar, (Pangi) District Chamba, H.P., who has worked as beldar on daily wages basis and has raised his industrial dispute after more than 19 years, allegedly without complying with the provisions of the Industrial Disputes Act, 1947 is legal and justified? If not, keeping in view of working period of 30 days during year 1994 and delay of more than 19 years in raising the industrial dispute, what amount of back wages, seniority, past service benefits and compensation the above ex-worker is entitled to from the above employer/management?”

2. The petitioner was proceeded *ex parte* on 26-11-2021 as despite personal service and due notice of the date of hearing, the workman/petitioner had absented from appearing in the Court and remained *ex parte*.

3. It will be apt at this stage to take note of the relevant provisions of the Industrial Disputes Act, 1947. Section 2 (b) of the Act defines the Award as under:—

“(b) “award” means an interim or a final determination of any industrial dispute or of any question relating thereto by any Labour Court, Industrial Tribunal or National Industrial Tribunal and includes an arbitration award made under Section 10A;”.

4. Sub-Section (1) of Section 11 of the Act provides that subject to any rules that may be made in this behalf, an arbitrator, a Board, Court, Labour Court, Tribunal or National Tribunal shall follow such procedure as the arbitrator or other authority concerned may think it fit.

5. The State of Himachal Pradesh has framed rules called “The Industrial Disputes Rules, 1974.” Rule 25 thereof reads thus:—

“Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator may proceed ex parte.— If without sufficient cause being shown, any party to the proceeding before a Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator fails to attend or to be represented, the Board, Court, Labour Court, Tribunal, National Tribunal or Arbitrator may proceed, as if the party had duly attended or had been represented.”

6. Rule 25 of the Industrial Disputes Rules, 1974 authorizes the adjudicating authority to proceed in the absence of a party. It creates a fiction which enables the Labour Court to presume that all the parties are present before it although, infact, it is not true, and thus make an *ex parte* award. This Tribunal in these circumstances has to imagine that the absentee workman is present and having done so, can give full effect to its imagination and carry it to its logical end. Under Rule 25, this Court, thus, has to imagine that the worker is present, he is unwilling to file the statement of claim, adduce evidence or argue his case.

7. In the instant case, neither the worker nor his counsel has put in appearance before this Tribunal on 26-11-2021 at Chamba, despite due notice. In these circumstances, the Labour Court can proceed and pass *ex parte* award on its merits.

8. As per the reference, it was required of the petitioner to plead and prove on record that the termination of his services during 10/1994 by the respondent was without complying with the provisions of the Act and, thus, illegal and unjustified. However, there is neither any pleading nor any evidence to this effect adduced by the petitioner/worker. At the risk of repetition it is observed that the petitioner/worker had not put in appearance before this Court on 26-11-2021 despite due notice and has remained *ex-parte*. In this view of the matter, the petitioner is not entitled to any

back wages, seniority, past service benefits and compensation. Accordingly, this reference is answered in above terms. Parties are left to bear their costs.

9. A copy of this Award be sent to the appropriate Government for necessary action at its end and the file after due completion be consigned to the Record Room.

Announced in the open Court today this 16th day of December, 2021.

Sd/-
(ARVIND MALHOTRA),
Presiding Judge,
Labour Court-cum-Industrial
Tribunal, Kangra at Dharamshala, H.P.

HIGH COURT OF HIMACHAL PRADESH, SHIMLA – 171 001

NOTIFICATION

Dated: 18th May, 2022

No. HHC/Rules/Amendment/2022.—The High Court of Himachal Pradesh in exercise of the power vested in it in this behalf, in pursuance to the directions issued by the Hon'ble Supreme Court of India in *Suo Moto* Writ Petition (C) No.4 of 2021, in Re: Delay in Release of Convicts After Grant of Bail, is pleased to make the following amendments in the Rules and Orders of Punjab and Haryana High Court, Volume-I and Volume-III, as applicable to the State of Himachal Pradesh:

(I) In Chapter 14 (Appeals and Revisions: Civil), Part E(Transmission of Appellate Court's Orders to Lower Courts) of Volume-I, after existing Rule 6, Rule-7 shall be added as follows:

“7. Fast and Secured Transmission of Electronic Records (FASTER):

The e-authenticated copies of the interim orders, stay orders and record of proceedings of the courts transmitted through Fast and Secured Transmission of Electronic Records (FASTER) System shall be valid for compliance of the direction contained therein.”

(II) In Chapter 1 (Practice in the Trial of Criminal Cases), Part A (General) of Volume-III, after existing Rule 13, Rule 14 shall be added as follows:

“14. Fast and Secured Transmission of Electronic Records (FASTER):

The e-authenticated copies of the interim orders, stay orders, bail orders and record of proceedings of the courts transmitted through Fast and Secured Transmission of Electronic Record (FASTER) System shall be valid for compliance of the directions contained therein.”

By order,

HIGH COURT OF HIMACHAL PRADESH,
SHIMLA.

HIGH COURT OF HIMACHAL PRADESH, SHIMLA - 171 001**NOTIFICATION***Shimla, the 19th May, 2022*

No. HHC/GAZ/14-58/75-XIV.—It is hereby notified for information of the Civil Judges concerned that the 75th Departmental Examination under Rule 18 of the Himachal Pradesh Judicial Service Rules, 2004 will be held in the premises of the High Court, Shimla-171 001 on the following dates:—

Date	Paper/subject	Time
Tuesday 28-06-2022	Criminal Law	10.00 A.M. to 1.00 P.M.
	Civil Law	2.00 P.M. to 5.00 P.M.
Wednesday 29-06-2022	Revenue Law-I	10.00 A.M. to 1.00 P.M.
	Revenue Law-II	2.00 P.M. to 5.00 P.M.
Thursday 30-06-2022	Accounts	10.00 A.M. to 1.00 P.M.
	Constitutional Law	2.00 P.M. to 5.00 P.M.

By order,

*Secretary Departmental
Examination Committee.*

**ब अदालत श्री विशन दास, कार्यकारी दण्डाधिकारी एवं नायब तहसीलदार, चढ़ियार
जिला कांगड़ा (हि0 प्र0)**

मुकदमा किस्म : जन्म/मृत्यु पंजीकरण

श्री विनोद कुमार पुत्र श्री सूंका राम पुत्र श्री गोरखू राम, निवासी महाल रुपेहड़, उप-तहसील चढ़ियार, जिला कांगड़ा (हि0 प्र0) प्रार्थी।

बनाम

आम जनता

विषय.—प्रार्थना-पत्र जेर धारा 13(3) जन्म एवम् मृत्यु पंजीकरण अधिनियम, 1969.

श्री विनोद कुमार पुत्र श्री सूंका राम पुत्र श्री गोरखू राम, निवासी महाल रुपेहड़, उप-तहसील चढ़ियार, जिला कांगड़ा (हि0 प्र0) ने इस कार्यालय/न्यायालय में प्रार्थना-पत्र पेश किया है कि मेरा जन्म दिनांक 07-06-1974 को महाल रुपेहड़, ग्राम पंचायत कुडंग, उप-तहसील चढ़ियार में हुआ है परन्तु अज्ञानतावश उस समय पंचायत के रिकार्ड में पंजीकरण नहीं करवाया जा सका है। जिसकी पुष्टि हेतु स्थानीय पंचायत का अनापत्ति प्रमाण-पत्र संलग्न किया गया है। इसलिए पंजीकरण करने के आदेश दिए जाएं।

अतः आम जनता को इस राजपत्र इशतहार/मुश्री मुनादी के माध्यम से सूचित किया जाता है कि इस बारे यदि किसी को कोई उजर व एतराज हो तो वह दिनांक 21-05-2022 को अधोहस्ताक्षरी की अदालत में असागतन या वकालतन हाजिर होकर अपना पक्ष रख सकते हैं अन्यथा उपरोक्त जन्म/मृत्यु का पंजीकरण करने के आदेश दे दिए जाएंगे। उसके उपरान्त कोई भी उजर व एतराज न सुना जाएगा।

आज दिनांक 21-04-2022 को हमारे हस्ताक्षर व मोहर अदालत से जारी हुआ।

मोहर।

हस्ताक्षरित/—
कार्यकारी दण्डाधिकारी एवम् नायब तहसीलदार,
चढ़ियार, जिला कांगड़ा (हि0 प्र0)।

ब अदालत श्री विशन दास, कार्यकारी दण्डाधिकारी एवं नायब तहसीलदार, चढ़ियार
जिला कांगड़ा (हि0 प्र0)

मुकद्दमा संख्या : 06/NT/2022

श्री जीवन राम पुत्र श्री कोलू राम पुत्र श्री गोरखू राम, निवासी महाल सम्लेतर, उप-तहसील चढ़ियार,
जिला कांगड़ा (हि0 प्र0) प्रार्थी।

बनाम

आम जनता

विषय.—प्रार्थना-पत्र जेर धारा 13(3) जन्म एवम् मृत्यु पंजीकरण अधिनियम, 1969.

श्री जीवन राम पुत्र श्री कोलू राम पुत्र श्री गोरखू राम, निवासी महाल सम्लेतर, उप-तहसील चढ़ियार, जिला कांगड़ा (हि0 प्र0) ने इस कार्यालय/न्यायालय में प्रार्थना-पत्र पेश किया है कि मेरी बहन व्यास देवी पत्नी तुआरसू राम का देहान्त दिनांक 28-11-1992 को महाल ठेहड़ उपरली, ग्राम पंचायत कुडंग, उप-तहसील चढ़ियार में हुआ है परन्तु अज्ञानतावश उस समय पंचायत के रिकार्ड में पंजीकरण नहीं करवाया जा सका है। जिसकी पुष्टि हेतु स्थानीय पंचायत का अनापत्ति प्रमाण-पत्र संलग्न किया गया है। इसलिए पंजीकरण करने के आदेश दिए जाएं।

अतः आम जनता को इस राजपत्र इशतहार/मुश्री मुनादी के माध्यम से सूचित किया जाता है कि इस बारे यदि किसी को कोई उजर व एतराज हो तो वह दिनांक 21-05-2022 को अधोहस्ताक्षरी की अदालत में असालतन या वकालतन हाजिर होकर अपना पक्ष रख सकते हैं अन्यथा उपरोक्त जन्म/मृत्यु का पंजीकरण करने के आदेश दे दिए जाएंगे। उसके उपरान्त कोई भी उजर व एतराज न सुना जाएगा।

आज दिनांक 21-04-2022 को हमारे हस्ताक्षर व मोहर अदालत से जारी हुआ।

मोहर।

हस्ताक्षरित/—
कार्यकारी दण्डाधिकारी एवम् नायब तहसीलदार,
चढ़ियार, जिला कांगड़ा (हि0 प्र0)।

ब अदालत सहायक समाहर्ता प्रथम श्रेणी, शाहपुर, जिला कांगड़ा (हि0 प्र0)

मुकद्दमा : इन्द्राज सेहत नाम

पेशी : 21-05-2022

सुदेश कुमारी पत्नी उत्तम सिंह, निवासी गांव व डाकघर रैत, तहसील शाहपुर, जिला कांगड़ा (हि0 प्र0)

बनाम

विषय.—दुरुस्ती नाम हि० प्र० रा० अधिनियम, 1954 की जेर धारा 37 के तहत महाल रैत में नाम दुरुस्ती बारे।

उपरोक्त मुकद्दमा बारे प्रार्थिया ने इस न्यायालय में प्रार्थना—पत्र गुजारा है जिसमें लिखा है कि उसका सही नाम सुदेश कुमारी पत्नी उत्तम सिंह है जबकि महाल रैत के राजस्व अभिलेख में उसका नाम ध्रुव देई पत्नी स्व० उत्तम सिंह पुत्र वरड़ दर्ज है जोकि गलत इन्द्राज हुआ है। प्रार्थिया उक्त नाम को दुरुस्त करके ध्रुव देई उपनाम सुदेश कुमारी पत्नी स्व० उत्तम सिंह पुत्र वरड़ दर्ज करवाना चाहती है।

अतः उक्त प्रार्थना—पत्र के सन्दर्भ में उपरोक्त नाम की दुरुस्ती बारे किसी को कोई एतराज हो तो वह असालतन या वकालतन इस अदालत में दिनांक 21-05-2022 को दोपहर बाद 2.00 बजे हाजिर आ सकता है। हाजिर न आने की स्थिति में एकतरफा कार्यवाही अमल में लाई जाकर आगामी आदेश पारित कर दिए जाएंगे और बाद में कोई भी उजर या एतराज जेरे समायत न होगा।

आज दिनांक 18-04-2022 को मेरी मोहर व हस्ताक्षर सहित जारी हुआ।

मोहर।

हस्ताक्षरित /—
सहायक समाहर्ता प्रथम श्रेणी,
शाहपुर, जिला कांगड़ा (हि० प्र०)।

ब अदालत सहायक समाहर्ता प्रथम श्रेणी, शाहपुर, जिला कांगड़ा (हि० प्र०)

मुकद्दमा : तकसीम भूमि

पेशी : 23-05-2022

जैसी राम पुत्र श्री भागमल, होशियार सिंह पुत्र श्री चुनी लाल, निवासीगण रावा, उप—तहसील दरीणी, जिला कांगड़ा, हिमाचल प्रदेश

वादी।

बनाम

राजिन्दर सिंह, कर्ण सिंह पुत्रान प्यार सिंह, रोशी पुत्र भागमल, वन्शी लाल, हरी सिंह, परस राम, वृज लाल, रजिन्द्र सिंह पुत्रान जोनी राम, करतार सिंह, विजय कुमार, चरण सिंह, कर्म सिंह पुत्रान व गुडो देवी, गीता देवी, राधा देवी, भानो देवी, निको देवी, दर्शना देवी पुत्रीयां व कैलाशो देवी पत्नी स्व० श्री पुन्नू राम समस्त निवासीगण महाल मनोह, मौजा रेहलू, तहसील शाहपुर, जिला कांगड़ा (हि० प्र०) प्रतिवादीगण।

मुकद्दमा बाबत तकसीम भूमि खाता नं० 50, खतौनी नं० 95 ता 96, खसरा कित्ता—11, रकबा तादादी 1-72-43 है० वाक्या महाल मनोह मौजा रेहलू, तहसील शाहपुर, जिला कांगड़ा (हि० प्र०) मुताबिक जमाबंदी वर्ष 2016-17.

उपरोक्त विषय से सम्बन्धित तकसीम भूमि की मिसल अधोहस्ताक्षरी के पास विचाराधीन है। जिसमें प्रतिवादीगण को इस अदालत द्वारा बार—बार समन जारी हुए परन्तु हर बार कुछ प्रतिवादीयों के समन बिना तामील के प्राप्त हुए। परन्तु उसके बावजूद प्रतिवादीगण इस अदालत में हाजिर न आ रहे हैं। इसलिए अदालत को विश्वास हो चुका है कि प्रतिवादीगण की तामील साधारण तरीके से नहीं हो सकती है।

अतः इस इश्तहार समाचार—पत्र द्वारा प्रतिवादीगणों को सूचित किया जाता है कि उपरोक्त तकसीम के मुकद्दमे के सम्बन्ध में यदि उन्हें कोई उजर या एतराज हो तो वे दिनांक 23-05-2022 को दोपहर बाद 2.00 बजे इस अदालत में असालतन या वकालतन हाजिर आकर अपना पक्ष/एतराज/उजर पेश कर सकते हैं। हाजिर न होने की सूरत में एकतरफा कार्यवाही अमल में लाई जाएगी उसके बाद कोई उजर या एतराज स्वीकार नहीं किया जाएगा।

आज दिनांक 08-04-2022 को मेरे हस्ताक्षर व मोहर सहित इस अदालत से जारी हुआ।

मोहर।

हस्ताक्षरित/—
सहायक समाहर्ता प्रथम श्रेणी,
शाहपुर, जिला कांगड़ा, हिमाचल प्रदेश।

ब अदालत सहायक समाहर्ता प्रथम श्रेणी, शाहपुर, जिला कांगड़ा (हि0 प्र0)

मुकद्दमा : तकसीम भूमि

पेशी : 23-05-2022

जैसी राम पुत्र श्री भागमल, होशियार सिंह पुत्र श्री चुनी लाल, निवासीगण रावा, उप-तहसील दरीणी, जिला कांगड़ा, हिमाचल प्रदेश वादी।

बनाम

अरविन्द पुत्र व अनीता पुत्री व रजिन्दरा कुमारी पत्नी जोगिन्दर सिंह, दीपा पत्नी स्व0 श्री जगरूप सिंह, संदीप सिंह, प्रवीण सिंह पुत्र व समंगला देवी, श्रेष्ठा देवी, कुमारी शशी किरण पुत्रीयां जय चन्द, रत्नी देवी पत्नी स्व0 श्री कर्म चन्द, विजय कुमार पुत्र व रंजना कुमारी पुत्री व चैचला देवी पत्नी स्व0 बुधी सिंह, रोशी पुत्र भागमल, वन्शी लाल, हरी सिंह, परस राम, वृज लाल, रजिन्द्र सिंह पुत्रान जोनी राम, करतार सिंह, चरण सिंह, कर्म सिंह, विजय कुमार पुत्रान व गुडो देवी, गीता देवी, राधा देवी, भानो देवी, निको देवी, दर्शना देवी पुत्रीयां व कैलाशो देवी पत्नी स्व0 श्री पुनू राम समस्त निवासीगण महाल मनोह, मौजा रेहलू, तहसील शाहपुर, जिला कांगड़ा (हि0प्र0) प्रतीवादीगण।

मुकद्दमा बाबत तकसीम भूमि खाता नं0 33, खतौनी नं0 64 ता 69, खसरा कित्ता-55, रकबा तादादी 3-35-76 है0 वाक्या महाल मनोह मौजा रेहलू, तहसील शाहपुर, जिला कांगड़ा (हि0प्र0) मुताबिक जमाबंदी वर्ष 2016-17.

उपरोक्त विषय से सम्बन्धित तकसीम भूमि की मिसल अधोहस्ताक्षरी के पास विचाराधीन है। जिसमें प्रतिवादीगण को इस अदालत द्वारा बार-बार समन जारी हुए परन्तु हर बार कुछ प्रतिवादीयों के समन बिना तामील के प्राप्त हुए। परन्तु उसके बावजूद प्रतिवादीगण इस अदालत में हाजिर न आ रहे हैं। इसलिए अदालत को विश्वास हो चुका है कि प्रतिवादीगण की तामील साधारण तरीके से नहीं हो सकती है।

अतः इस इशतहार समाचार-पत्र द्वारा प्रतिवादीगणों को सूचित किया जाता है कि उपरोक्त तकसीम के मुकद्दमें के सम्बन्ध में यदि उन्हें कोई उजर या एतराज हो तो वे दिनांक 23-05-2022 को दोपहर बाद 2.00 बजे इस अदालत में असालतन या वकालतन हाजिर आकर अपना पक्ष/एतराज/उजर पेश कर सकते हैं। हाजिर न होने की सूरत में एकतरफा कार्यवाही अमल में लाई जाएगी उसके बाद कोई उजर या एतराज स्वीकार नहीं किया जाएगा।

आज दिनांक 08-04-2022 को मेरे हस्ताक्षर व मोहर सहित इस अदालत से जारी हुआ।

मोहर।

हस्ताक्षरित/—
सहायक समाहर्ता प्रथम श्रेणी,
शाहपुर, जिला कांगड़ा, हिमाचल प्रदेश।

**ब अदालत नायब तहसीलदार एवं सहायक समाहर्ता, द्वितीय श्रेणी हरिपुर,
जिला कांगड़ा (हि0 प्र0)**

मुकद्दमा नं0 : 08/21

किस्म मुकद्दमा : तकसीम

तारीख पेशी : 21-05-2022

विजय कुमार पुत्र श्री खेम सिंह, वासी महाल अमलेहड, तहसील हरिपुर, जिला कांगड़ा (हि0 प्र0)

बनाम

1. प्रीतम सिंह, 2. कमलुत सिंह, 3. केवल सिंह पुत्रान दलीप सिंह, 5. अजय कुमार, 6. नीरज कुमार पुत्रान व 7. कंचन देवी पत्नी स्व0 श्री रमेश चन्द, 8. मेहर सिंह, 9. चरण सिंह, 10. मदन सिंह, 11. अश्वनी कुमार पुत्रान, 12. अंजू बाला पुत्री, 13. रोशनी देवी पत्नी स्व0 श्री राये सिंह, 14. जय कृष्ण पुत्र हजार, 15. सरूप सिंह पुत्र, 16. सिलमा देवी, 17. सुमनलता, 18. सुलिन्द्रा देवी पुत्रियां, 19. बचनी देवी पत्नी स्व0 श्री उधो राम, 20. अशोक कुमार पुत्र, 21. गीता देवी पत्नी परस राम, 22. हरनाम सिंह, 23. गोहरी देवी पुत्री होशयारु उपनाम होशियार सिंह, 24. सुरिंदर सिंह पुत्र, 25. कुलदीप कौर पुत्री जयकर, 26. अमनदीप सिंह, 27. रमनदीप सिंह पुत्रान, 28. बलबीर कौर पत्नी देविन्द्र सिंह, 29. कातार सिंह, 30. जगतार सिंह, 31. सतीश कुमार, 32. नरेश कुमार पुत्रान रणसिंह, 33. हरिदत्त सिंह, 34. महिन्द्र सिंह पुत्रान बचित्र सिंह, 35. बलबीर सिंह, 36. इन्द्र सिंह पुत्रान जोधा उपनाम जोध सिंह, 37. दिनेश कुमार, 38. शमशेर सिंह पुत्रान, 39. सरोज कुमार पुत्री, 40. स्वर्णा देवी पत्नी स्व0 श्री बलदेव सिंह, 41. बंगा देवी पत्नी जोधा उपनाम जोध सिंह, 42. रविन्द्र सिंह पुत्र लछमण सिंह, 43. ईशान पुत्र, 44. ननिता पुत्री, 45. सुनीता देवी पत्नी दविन्द्र सिंह, 46. अशोक कुमार, 47. गुरदयाल सिंह पुत्रान खेम सिंह, 48. विशाल पुत्र, 49. महिन्द्र कौर पत्नी स्व0 प्रकाश चन्द, 50. शीला देवी पत्नी स्व0 श्री खेम सिंह समस्त वासीगण अमलेहड, तहसील हरिपुर, जिला कांगड़ा (हि0 प्र0)

विषय.—भूमि तकसीम खाता नं0 26, खतौनी 64, खसरा कित्ता 3, रकबा 0—84—12 हैक्टियर स्थित महाल अमलेहड, तहसील हरिपुर, जिला कांगड़ा (हि0 प्र0)। जमाबन्दी वर्ष 2019—20.

समन बनाम :

प्रतिवादी नं0 2 ता 4, 7, 9, 11 ता 13, 16 ता 28, 30, 34, 36, 38, 39, 41, 42, 47, 48, 50

उपरोक्त मुकद्दमा इस न्यायालय में विचाराधीन है। इसमें उपरोक्त प्रतिवादीगणों के समनों की तामील साधारण तरीके से न हो पा रही है। अतः अब इस इशतहार राजपत्र हि0प्र0/मुस्त्री मुनादी द्वारा प्रतिवादी उपरोक्त को सूचित किया जाता है कि वे इस केस की पैरवी हेतु दिनांक 21—05—2022 को अधोहस्ताक्षरी की अदालत में असालतन या बकालतन हाजिर हों। गैरहाजिरी की सूरत में एकतरफा कार्यवाही अमल में लाई जाएगी।

आज दिनांक 30—03—2022 को मेरे हस्ताक्षर व मोहर सहित जारी हुआ।

मोहर।

हस्ताक्षरित /—
नायब तहसीलदार एवं सहायक समाहर्ता द्वितीय श्रेणी,
हरिपुर, जिला कांगड़ा (हि0 प्र0)।

ब अदालत सहायक समाहर्ता प्रथम श्रेणी एवं तहसीलदार, धर्मशाला, तहसील धर्मशाला,
जिला कांगड़ा (हि0 प्र0)

नोटिस/इशतहार राजपत्र में प्रकाशन बारे

ता0 पेशी : 23—05—2022

किस्म मुकद्दमा : Registration of will u/s 40-41

नरेश ठाकुर

बनाम

आम जनता

प्रार्थना-पत्र.—बाबत दर्ज करवाने हेतु वसीयत का इंतकाल महाल श्यामनगर, मौजा मंत, तहसील धर्मशाला, जिला कांगड़ा (हि0 प्र0)।

प्रार्थी श्री नरेश ठाकुर पुत्र स्व0 श्री गोविंद चंद ठाकुर, निवासी वार्ड नं0 145, निवासी महाल श्यामनगर, मौजा मंत ने इस अदालत में वसीयतनामा पेश किया है जिसमें उसने मृतक कुमारी ऊर्मिल ठाकुर पुत्री स्व0 गोविंद चंद ठाकुर, निवासी वार्ड नं0 10, हाऊस नं0 145, श्यामनगर, मौजा मंत, तहसील धर्मशाला की वसीयत दर्ज करवाने बारे प्रार्थना-पत्र दिया है जिसमें मुताबिक कुमारी स्व0 ऊर्मिल ठाकुर की वसीयत के अनुसार नरेश ठाकुर पुत्र स्व0 गोविंद ठाकुर का नाम दर्ज करवाने बारे अनुरोध किया है। कुमारी ऊर्मिल ठाकुर की मृत्यु दिनांक 15-05-2021 को हो चुकी है। मुताबिक कुमारी ऊर्मिल ठाकुर पुत्री स्वर्गीय गोविंद ठाकुर की वसीयत के अनुसार मृतक के जायज वारसान के नाम इंतकाल दर्ज किया जाना वाजिब है तथा ऊर्मिल ठाकुर का एकमात्र जायज वारसान नरेश ठाकुर पुत्र स्व0 गोविंद ठाकुर है।

अतः राजपत्र इश्तहार के द्वारा आम जनता व संबन्धित हितबद्ध पक्षों को सूचित किया जाता है कि अगर उपरोक्त वसीयत के बारे किसी को भी कोई उजर या एतराज हो तो वह अधोहस्ताक्षरी की अदालत में दिनांक 23-05-2022 को असालतन या बकालतन उपस्थित होकर पेश कर सकता है अन्यथा नरेश ठाकुर के नाम वसीयत दर्ज करने बारे आदेश पारित कर दिये जाएंगे। उसके उपरांत कोई एतराज न सुना जाएगा।

आज दिनांक 20-04-2022 को मेरे हस्ताक्षर व मोहर अदालत द्वारा जारी हुआ।

मोहर।

हस्ताक्षरित/—
सहायक समाहर्ता प्रथम श्रेणी,
तहसील धर्मशाला, जिला कांगड़ा (हि0 प्र0)।

ब अदालत नायब तहसीलदार एवं सहायक समाहर्ता द्वितीय वर्ग, ईसपुर, जिला ऊना (हि0प्र0)

दरखास्त बमुराद दुरुस्ती राजस्व रिकार्ड महाल चक खड्ड की जमाबन्दी 2016-17 संजय कुमार पुत्र विशन दास के बजाये संजीव कुमार पुत्र विशन दास पुत्र भगवान दास दर्ज करने बारे।

बनाम

आम जनता

इश्तहार मुश्री मुनादी जेर धारा-23 भू-राजस्व अधिनियम, 1954.

उपरोक्त मुकद्दमा उनवान वाला में प्रार्थी संजीव कुमार पुत्र विशन दास, वासी चक खड्ड, तहसील ईसपुर, जिला ऊना ने प्रार्थना-पत्र प्रस्तुत करके निवेदन किया है कि उसका नाम खेवट नं0 484, 408, 407, 406, 405, 345 जमाबन्दी साल 2016-2017 में संजय कुमार पुत्र विशन दास गलत चला आ रहा है। जबकि उसका सही नाम संजीव कुमार पुत्र विशन दास है। अतः सर्वसाधारण को इस इश्तहार द्वारा सूचित किया जाता है कि अगर किसी भी व्यक्ति को उक्त नाम की दुरुस्ती बारे कोई एतराज हो तो वह मुकद्दमा की पैरवी हेतु असालतन या बकालतन इस न्यायालय में दिनांक 22-05-2022 को प्रातः 10.00 बजे हाजिर आयें हाजिर न आने की सूरत में उनके खिलाफ एकतरफा कार्यवाही अमल में लाई जाकर मुकद्दमा का निपटारा/खैम कर दिया जायेगा।

आज दिनांक 22-04-2022 को मेरे हस्ताक्षर व मोहर अदालत द्वारा जारी हुआ।

मोहर।

हस्ताक्षरित/—
नायब तहसीलदार एवं सहायक समाहर्ता द्वितीय वर्ग,
ईसपुर, जिला ऊना (हि0 प्र0)।

ब अदालत नायब तहसीलदार एवं सहायक समाहर्ता द्वितीय वर्ग, ईसपुर, जिला ऊना (हि0प्र0)

दरखास्त बमुराद दुरुस्ती राजस्व रिकार्ड महाल भैणी खड्ड की जमाबन्दी 2016-17 संजय कुमार पुत्र विशन दास के बजाये संजीव कुमार पुत्र विशन दास पुत्र भगवान दास दर्ज करने बारे।

बनाम

आम जनता

इश्तहार मुश्त्री मुनादी जेर धारा-23 भू-राजस्व अधिनियम, 1954.

उपरोक्त मुकद्दमा उनवान वाला में प्रार्थी संजीव कुमार पुत्र विशन दास, वासी भैणी खड्ड, तहसील ईसपुर, जिला ऊना ने प्रार्थना-पत्र प्रस्तुत करके निवेदन किया है कि उसका नाम खेवट नं0 435, 434, 431 जमाबन्दी साल 2016-2017 में संजय कुमार पुत्र विशन दास गलत चला आ रहा है। जबकि उसका सही नाम संजीव कुमार पुत्र विशन दास है। अतः सर्वसाधारण को इस इश्तहार द्वारा सूचित किया जाता है कि अगर किसी भी व्यक्ति को उक्त नाम की दुरुस्ती बारे कोई एतराज हो तो वह मुकद्दमा की पैरवी हेतु असालतन या वकालतन इस न्यायालय में दिनांक 22-05-2022 को प्रातः 10.00 बजे हाजिर आयें। हाजिर न आने की सूरत में उनके खिलाफ एकतरफा कार्यवाही अमल में लाई जाकर मुकद्दमा का निपटारा/खैम कर दिया जायेगा।

आज दिनांक 22-04-2022 को मेरे हस्ताक्षर व मोहर अदालत द्वारा जारी हुआ।

मोहर।

हस्ताक्षरित/—

नायब तहसीलदार एवं सहायक समाहर्ता द्वितीय वर्ग,
ईसपुर, जिला ऊना (हि0 प्र0)।

ब अदालत नायब तहसीलदार एवं सहायक समाहर्ता द्वितीय वर्ग, हरोली, जिला ऊना (हि0प्र0)

दरखास्त बमुराद दुरुस्ती राजस्व रिकार्ड महाल धर्मपुर की जमाबन्दी 2017-18 में संजीव पुत्र कमल सिंह पुत्र हुकम चन्द की बजाय संजीव राणा पुत्र कमल सिंह पुत्र हुकम चन्द दर्ज करने बारे।

बनाम

आम जनता

इश्तहार मुश्त्री मुनादी जेर धारा-23 भू-राजस्व अधिनियम, 1954.

उपरोक्त मुकद्दमा उनवान वाला में प्रार्थी संजीव राणा पुत्र कमल सिंह पुत्र हुकम चन्द, वासी धर्मपुर, तहसील हरोली, जिला ऊना ने प्रार्थना-पत्र प्रस्तुत करके निवेदन किया है कि उसका नाम जमाबन्दी साल 2017-2018 में संजीव पुत्र कमल सिंह गलत चला आ रहा है। जबकि उसका सही नाम संजीव राणा पुत्र कमल सिंह है। अतः सर्वसाधारण को इस इश्तहार द्वारा सूचित किया जाता है कि अगर किसी भी व्यक्ति को उक्त नाम की दुरुस्ती बारे कोई एतराज हो तो वह मुकद्दमा की पैरवी हेतु असालतन या वकालतन इस न्यायालय में दिनांक 24-05-2022 को प्रातः 10.00 बजे हाजिर आयें। हाजिर न आने की सूरत में उनके खिलाफ एकतरफा कार्यवाही अमल में लाई जाकर मुकद्दमा का निपटारा/फैसला कर दिया जायेगा।

आज दिनांक 26-04-2022 को मेरे हस्ताक्षर व मोहर अदालत द्वारा जारी हुआ।

मोहर।

हस्ताक्षरित/—

नायब तहसीलदार एवं सहायक समाहर्ता द्वितीय वर्ग,
हरोली, जिला ऊना (हि0 प्र0)।

ब अदालत नायब तहसीलदार एवं सहायक समाहर्ता द्वितीय वर्ग, हरोली, जिला ऊना (हि0प्र0)

दरखास्त बमुराद दुरुस्ती राजस्व रिकार्ड महाल रोडावालीवाल की जमाबन्दी 2017-18 में तरसेम सिंह पुत्र भगत राम की बजाय तरसेम लाल पुत्र भगत राम दर्ज करने बारे।

बनाम

आम जनता

इशतहार मुश्त्री मुनादी जेर धारा-23 भू-राजस्व अधिनियम, 1954.

उपरोक्त मुकद्दमा उनवान वाला में प्रार्थी तरसेम लाल पुत्र भगत राम, वासी रोडावालीवाल, तहसील हरोली, जिला ऊना ने प्रार्थना-पत्र प्रस्तुत करके निवेदन किया है कि उसका नाम जमाबन्दी साल 2017-2018 में तरसेम सिंह पुत्र भगत राम गलत चला आ रहा है। जबकि उसका सही नाम तरसेम लाल पुत्र भगत राम है। अतः सर्वसाधारण को इस इशतहार द्वारा सूचित किया जाता है कि अगर किसी भी व्यक्ति को उक्त नाम की दुरुस्ती बारे कोई एतराज हो तो वह मुकद्दमा की पैरवी हेतु असालतन या वकालतन इस न्यायालय में दिनांक 24-05-2022 को प्रातः 10.00 बजे हाजिर आयें हाजिर न आने की सूरत में उनके खिलाफ एकतरफा कार्यवाही अमल में लाई जाकर मुकद्दमा का निपटारा/फैसला कर दिया जायेगा।

आज दिनांक 26-04-2022 को मेरे हस्ताक्षर व मोहर अदालत द्वारा जारी हुआ।

मोहर।

हस्ताक्षरित/-

नायब तहसीलदार एवं सहायक समाहर्ता द्वितीय वर्ग,
हरोली, जिला ऊना (हि0 प्र0)।

ब अदालत नायब तहसीलदार एवं सहायक समाहर्ता द्वितीय वर्ग, हरोली, जिला ऊना (हि0प्र0)

दरखास्त बमुराद दुरुस्ती राजस्व रिकार्ड महाल बढेडा की जमाबन्दी 2014-15 में राजेश कुमार पुत्र माडू पुत्र रोडा की बजाय राजेश कुमार पुत्र रघुनाथ सिंह पुत्र रोडा दर्ज करने बारे।

बनाम

आम जनता

इशतहार मुश्त्री मुनादी जेर धारा-23 भू-राजस्व अधिनियम, 1954.

उपरोक्त मुकद्दमा उनवान वाला में प्रार्थी राजेश कुमार पुत्र माडू पुत्र रोडा, वासी बढेडा, तहसील हरोली, जिला ऊना ने प्रार्थना-पत्र प्रस्तुत करके निवेदन किया है कि उसके पिता का नाम जमाबन्दी साल 2014-2015 में माडू पुत्र रोडा गलत चला आ रहा है। जबकि उसके पिता का सही नाम रघुनाथ सिंह पुत्र रोडा है। अतः सर्वसाधारण को इस इशतहार द्वारा सूचित किया जाता है कि अगर किसी भी व्यक्ति को उक्त नाम की दुरुस्ती बारे कोई एतराज हो तो वह मुकद्दमा की पैरवी हेतु असालतन या वकालतन इस न्यायालय में दिनांक 30-05-2022 को प्रातः 10.00 बजे हाजिर आयें। हाजिर न आने की सूरत में उनके खिलाफ एकतरफा कार्यवाही अमल में लाई जाकर मुकद्दमा का निपटारा/फैसला कर दिया जायेगा।

आज दिनांक 02-05-2022 को मेरे हस्ताक्षर व मोहर अदालत द्वारा जारी हुआ।

मोहर।

हस्ताक्षरित/-

नायब तहसीलदार एवं सहायक समाहर्ता द्वितीय वर्ग,
हरोली, जिला ऊना (हि0 प्र0)।

**In the Court of Marriage Officer-cum-Sub-Divisional Magistrate, Sundernagar,
District Mandi (H. P.)**

In the matter of :

1. Munish Sharma s/o Sh. Ashwani Kumar Sharma, r/o H. No. 226/6, Village Bahot, Tehsil Sundernagar, District Mandi (H.P.)

2. Himani Rai d/o Sh. Yashpal Rai, r/o H. No. 266/6, Lower Samkheter, Tehsil Sadar, District Mandi (H.P). at present w/o Shri Munish Sharma s/o Sh. Ashwani Kumar Sharma, r/o H. No. 226/6, Village Bahot, Tehsil Sundernagar, District Mandi (H.P.) . . Applicants.

Versus

General Public

. . Respondent.

Subject.—Application for the registration of marriage under section 15 of Special Marriage Act, 1955.

Munish Sharma s/o Sh. Ashwani Kumar Sharma and Himani Rai d/o Sh. Yashpal Rai applicants have filed an application alongwith affidavits in the court of undersigned under section 15 of Special Marriage Act, 1955 that they have solemnized their marriage on 01-11-2019 according to Hindu rites and ceremonies and they are living together as husband and wife since then, hence, their marriage may be registered under Special Marriage Act.

Therefore, the general public is hereby informed through this notice that any person who has any objection regarding this marriage, can file the objection personally or in writing before this court on or before 20-05-2022. After that no objection will be entertained and marriage will be registered.

Issued today on 08-04-2022 under my hand and seal of the court.

Seal.

Sd/-

*Marriage Officer-cum-Sub-Divisional Magistrate,
Sundernagar, District Mandi (H.P.).*

नाम परिवर्तन

मैं, नीति अविनाश शर्मा पत्नी श्री अविनाश शर्मा, उम्र 33 वर्ष, निवासी मेन बाजार, समीप समा निवास, कसुम्पटी, शिमला (हि0प्र0) का नाम कुछ सरकारी रिकार्ड में नीति कौशल दर्ज है कृपया सभी रिकार्ड में मेरा नाम नीति अविनाश शर्मा दर्ज किया जाए जो सही है।

नीति अविनाश शर्मा,
पत्नी श्री अविनाश शर्मा,
निवासी मेन बाजार, समीप समा निवास,
कसुम्पटी, शिमला (हि0प्र0)।